

Utah State Historical Society

State Capitol, Salt Lake City

Volume VIII

April, July, October, 1940

Numbers 2-3-4

PREFACE

In publishing this monograph, the Utah Historical Quarterly recreates fascinatingly the stirring era of the State of Deseret. The genesis of civil government in the Rocky Mountain region here for the first time is adequately treated, and many misconceptions of the origins of government in Utah will now be corrected, but additionally this monograph explores little-known sequels to that first government in the valiant forty-five year fight for statehood and the involved struggle between Federal territorial policy and religious-temporal idealism. Based on primary source materials and written with notable objectivity, this study represents a valuable contribution to the history of Utah and the entire West.

The history has been compiled and written by Dale L. Morgan of the Utah Historical Records Survey Project, W. P. A., aided by research workers under his supervision. The project, which is sponsored by the Utah State Historical Society, and co-sponsored in Salt Lake County by the Salt Lake County Commission, which gave special financial support to this publication, is supervised by Dee R. Bramwell, who offered valuable aid in the compilation and legal analysis of the Ordinances. Maps are by Earl R. Varner, project draftsman, and are based upon a photostatic copy of the Charles Preuss map of 1848, and legal descriptions contained in the Constitution and Ordinances of the State of Deseret.

The reprint of the *Ordinances* is a verbatim copy by Survey workers from the original ordinances of 1850 and 1851, a rare compilation in possession of the L. D. S. Church Historian's Office. These laws were adopted in revised and deleted form by the subsequent territorial government of Utah. Misconceptions have been perpetuated in the past by reference to the altered ordinances as being verbatims of the originals, and this reprint will rectify such misinterpretation, while also making these laws for the first time available in complete form. In addition, three ordinances previously unpublished except in *The Deseret News* of 1850 enhance the value of this reprint.

The *Ordinances of the State of Deseret* (originally compiled as *Laws and Ordinances of the State of Deseret*, but abbreviated

by usage) have been dismissed as uninteresting by historians too much concerned with violent color. A study of these statutes reveals the religious, social, economic, and political philosophy of the Mormons as reflected in their legal thinking on the government of the social group and its officials.

Probably no single source of history portrays so clearly the far seeing wisdom, the devoted adherence to principles, and the rare ability at self government that is manifested by the "Mormon" Pioneers through these laws of Deseret. This isolated but closely amalgamated group convincingly demonstrated its ability to purge itself, and keep its own premises clear of those social evils which often grow up to weaken, divert or destroy from within. Other communities founded by a heterogeneous people fortuitously brought together have struggled through decades, even through generations, to bring about a basic governing commonwealth law, which was in this instance created almost simultaneously with the gathering of the people behind the shelter of these everlasting hills.

Appreciation is extended to the L. D. S. Church for gracious cooperation, particularly to Joseph Fielding Smith, church historian; to A. William Lund, assistant church historian, who aided in checking the sources and who kindly read the manuscript; to Alvin F. Smith, church librarian, who was of constant generous assistance; to Andrew Jenson, assistant church historian, and to Cyrus G. Gattrell, in charge of the State Law Library. Much recourse has been had to the monumental "Journal History" of the church, which makes possible thorough documentary studies of many phases of early Utah history. The monograph could not have been so complete except for the courteous assistance of the Salt Lake City Free Public Library, which granted access to its invaluable newspaper files.

EDITOR.

THE STATE OF DESERET

I. GENESIS OF THE STATE OF DESERET—(1847-1849)

"Deseret" is almost a lost word in Utah. It survives only colorlessly, in the name of a few business firms and religious organizations. Latter-day Saint children sing hymns to "our lovely Deseret" with little understanding of the passionate devotion the name once commanded, or the aspiration which it encompassed. Most of the pioneers who fought for the cause of Deseret are no longer living, and except in the eyes of history, "Deseret" is dead.

But for students of history and social institutions, the story of Deseret is of enduring interest. Deseret introduced Utah to national political life, indelibly shaping Utah life and institutions, and as an idea and an ideal persisted in the social and political struggles of Utah for thirty years after its cause was lost.

Among the states of the Union, only five made a spontaneous effort at self-creation. Texas is unique; Texas fought a war of independence with Mexico and then as a sovereign government secured annexation to the United States under terms accorded no other state. Of the other four which boldly laid hands upon their destinies Franklin, Oregon, and Deseret were unsuccessful, while California achieved its ends.¹

As an example of political organization Deseret is more significant than any of its fellows. It was "an efficient government; more so than the spontaneous governments of Oregon or Franklin had been."² The Ordinances of the State of Deseret fully indicate

¹Franklin, the embryo state of Tennessee, made its first effort toward independent organization prior to the American Revolution. In 1772 residents of the unorganized western part of North Carolina established a form of government called the Watauga Association, designed to establish the minimum institutions of government which North Carolina would not provide. This Association came to nothing, and the region was organized as a part of North Carolina, first as Washington District and then as Washington County, but in 1784, in protest at the neglect of the mother state, settlers again established an independent government, a constitution being adopted, elections held, a governor elected, and the state of Franklin (earlier Frankland) established in 1785. Like Deseret in after years, Franklin was held in suspicion of treason because of the forthright initiative displayed by the settlers. Owing to the influence of North Carolina, all the efforts of this state to secure recognition during its three year life were fruitless. Congress finally organized the region in 1790 as the "Territory South of the River Ohio."

Emigration to Oregon, which assumed important proportions after 1840, led in 1843 to an effort at Champoege toward establishment of an independent state government. The Oregonians created a local government based upon the laws of Iowa Territory. This governing body was at first an executive committee of three citizens, but in 1845 the committee was abolished and a governor chosen. The provisional government was not recognized by Congress, and no fully sanctioned government was established until Congress, after delays quite typical of its action on western problems, created a territorial government in 1848.

The case of New Mexico is somewhat different. Various military and civil governments ruled after the proclamation of United States rule by General Stephen Kearny on August 22, 1846. Congress was petitioned for a territorial government in October, 1848, and again in September, 1849. In May, 1850, a convention at Santa Fe drafted a constitution for the state of New Mexico which was adopted by the people in a June election. The legislature met in July, with the result that the military government denied the authority of the provisional government until Congress should have recognized it. Colorado also established a provisional state, named Jefferson, in 1859, but the Colorado territory was nominally a part of five other Territories, and there were too many governments on the one hand and too much interest in the gold mines on the other for "Jefferson" to acquire any real existence.

²Frederic L. Paxson, *History of the American Frontier, 1763-1893* (Boston, 1924, 598 pp.), p. 339.

the political and social maturity of the people who created them, and in the history of the frontier must be considered among the more valuable source material.

It is important to appreciate the differences in character and social temper between the Mormons, whose instrument the State of Deseret was, and the settlers of Tennessee, Oregon, and California. The Mormons, in flight from the midwestern frontier in 1847, brought with them a tradition of and capacity for social organization possessed by the people of no other provisional government. The other states were settled under individual initiative, as adventurous spirits for varying reasons penetrated the frontier of their time. The settlement of the Tennessee region constituted the opening of the Wilderness Trail, the highroad from the Atlantic seaboard into the west. The settlement of Oregon established the end of the trail at the Pacific coast, emigration having leaped beyond the difficult Great Plains to the comfortable, familiar environment of the fertile Pacific Northwest. California was not entirely virgin country, but the process of infiltration and original settlement would have paralleled developments in Oregon except for the gold hysteria, which made American occupation a nightmare of economic and social upheaval.

Individual enterprise reigned in the settling of all these states except Deseret. Settlers brought with them no concrete ideas of close-knit social relationship and an established political and social authority, but a conception of individual independence and certain direct concepts of justice and freedom which they translated, over a period of years and through a process of local adaptation to the new frontier, into a government. They brought, that is, potentialities for political activity, not an immediate capacity for comprehensive organization.

The Mormons by contrast, came west a closely integrated group, their conception of their religious mission and the varied persecutions to which they had been subjected having originated in them an extraordinary group-consciousness. They came to the Rocky Mountains with a motive nowhere else displayed in the history of the western frontier. They came as a great group in flight from an antagonistic society, a group in search of the peace and social freedom isolation could confer. They came with a remarkable conception of social responsibility and with a full recognition and acceptance of a ruling authority which was at once political and ecclesiastical. In July of 1847 the vanguard of these pioneers settled near the shores of Great Salt Lake.

Having established a settlement which it was agreed to call Great Salt Lake City, Brigham Young turned back on August 26 to Winter Quarters, Iowa. In the month the Mormons had been in the "Valley," they had explored the country north to Cache Valley, south to Utah Lake, west to the southern shore of Great

Salt Lake, and had investigated quite fully the neighboring hills, mountains, and canyons. More importantly, they "broke, watered, planted, and sowed upwards of 100 acres with various kinds of seeds; nearly stockaded with adobes one public square (ten acres)," and built "one line of log cabins in stockade."³ Addressing the settlers on August 22, Brigham Young recommended that a president be appointed to preside over the settlement, along with other necessary officers; and when the congregation approved these recommendations, declared, "It is the right of the Twelve to nominate the officers and the people to receive them. We wish to know who is coming in the next company. If Uncle John Smith comes, it is our minds that he preside."⁴

As the uncle of Joseph Smith, John Smith commanded particular respect, and was, indeed, officially declared presiding patriarch of the church at conference in Winter Quarters in December, 1847, when Brigham Young was formally declared president of the church. On September 5, near South Pass, the returning Mormon party met one of the westward-bound companies, of which John Smith was a member, and the following day at a meeting of the eight apostles present with the officers of the camps, nominated "a president, a High Council, and a marshal for G. S. L. City."⁵ Three days later, in an epistle dispatched to the settlers in Salt Lake Valley, which was full of advice concerning the minutiae of social and economic organization, Young wrote: "It is wisdom that certain officers should exist among you, to preside during our absence, and we would nominate John Smith to be your president, with liberty for him to select his two counselors, and we would suggest the names of Chas. C. Rich and John Young. We would nominate Henry G. Sherwood, Thos. Grover, Levi Jackman, John Murdock, Daniel Spencer, Stephen Abbott, Ira Eldredge, Edison Whipple, Shadrack [Shadrach] Roundy, John Vance, Willard Snow, and Abraham O. Smoot for a High Council; whose duty it will be to observe those principles which have been instituted in the Stakes of Zion for the government of the Church, and to pass such laws and ordinances as shall be necessary for the peace and prosperity of the city for the time being, if such there need be, though we trust few or none will be necessary; for you have had line upon line, and precept upon precept, and know what is right; and our motto is, 'Every person do their duty.'"⁶

John Smith arrived in the Valley on September 25, and on October 3, at the church conference in Salt Lake Valley, the suggested appointments were ratified. Charles Coulson Rich, who had arrived September 26 as commander of the first artillery company

³George A. Smith, *Journal*, 1847, p. 368, quoted in L. D. S. *Journal History*, August 26, 1847.

⁴Howard Egan, *Pioneering the West*. (Salt Lake City, 1917, 302 pp.), p. 127.

⁵L. D. S. *Journal History*, September 6, 1847.

⁶"Epistle of the Council of the Twelve Apostles to the saints in the Great Salt Lake City, Great Basin, North America," quoted in L. D. S. *Journal History*, September 9, 1847.

of the migrating pioneers, was elected chief military commander, under the direction of the stake authorities; Albert Carrington, clerk, historian, and deputy postmaster; and John Van Cott, marshal.⁷ Although L. D. S. archives are silent on the matter, it appears also that the office of "public complainer" was instituted, for John Nebeker served in that capacity during 1847-1848.⁸

It is important to appreciate the character of the authority which the populace accepted, for the legislation and the administration of affairs in Utah during the next thirty years is inextricably entangled with this recognition of authority. Essentially the people looked for leadership to the church authorities; the church itself was conceived as the initial step toward the literal establishment of the "Kingdom of God." The church developed as a theocracy, tempered by the traditions of the democratic soil from which it grew.

Originally authority was vested primarily in Joseph Smith, though soon he declared that the "keys to the Kingdom" lay in no one man but in the church itself.⁹ The church was largely built upon the solidity of its organic groups, particularly the Quorum of the Twelve Apostles, but Joseph Smith was the vital force in the early church, and leadership lay in him. Although the Mormons advanced no doctrine of infallibility and although Joseph Smith was frank in admitting his mistakes, his position as the spokesman of God invested all his pronouncements with an inevitable force. There could be no question of the ultimate rightness of his decisions in major matters of policy without question of his religious pronouncements, though he could be, and sometimes was, overruled in matters of procedure.

The church itself was democratic in its origins, and its evolution was a notable development of the contemporaneous belief in the boundless worth and ability of the common man, but its theocratic organization held certain anti-democratic tendencies, as is evidenced by the belief of many, especially Joseph Smith's sons, that transmission of the highest authority was hereditary. Therefore, when Brigham Young, after the death of Joseph Smith, boldly resolved the question of succession by asserting the final authority of the Quorum of the Twelve, he not only supplied a rudder for the greater part of the church membership but also returned Mormonism more nearly to the democratic tradition.

Until late 1847 Young guided the church simply in his capacity as president of the Quorum of the Twelve. His leadership was rather more earthly than had been that of Joseph Smith. He rarely claimed direct divine inspiration but, rather, asserted that

⁷L. D. S. Journal History, October 3, 1847.

⁸John Nebeker, "Early Justice in Utah," *Utah Historical Quarterly*, July, 1930, p. 88.

⁹The L. D. S. Church is built upon the belief that subsequently (1835) the "keys to the Kingdom" by divine revelation were vested in the Quorum of the Twelve Apostles. See *Doctrine and Covenants*, Section 107.

the favor of God was proved by the manner in which God smiled on the Mormon enterprises. Strongly democratic implications attend this viewpoint, for divine intervention in human affairs could emerge as surely through the human mass as through the leaders, and any man conceivably could become a member of the Quorum of the Twelve, from which the president of the church has invariably been named since Young's time. Yet essentially the church was theocratic rather than democratic, and leadership in the church was a downward impulsion from a supreme authority, not an upward impulsion from the populace. Such a development is, indeed, inescapable in the nature of religions, and no dynamic religious organization could survive over a period of years without the unifying force of such an authority, for popular initiative is individual—disruptive and schismatic—rather than social or consolidatory. Leadership in the church was delicately responsive to popular needs, but not in itself born of popular feeling; once the central fact of church authority was established and accepted, it necessarily developed unchallenged. Theocratic organization was not peculiar to the Mormons, but in their case it was given particular force by the immediacy of their belief in the "Kingdom of God," and by the stern character of their social experiences.

The democratic forms survived primarily in the way of public ratification of the proposed acts of the leaders. Usually the people voted not on a choice of alternatives but on whether to sustain the acts of leaders in whom they had faith, as in the case of elections in Utah prior to 1870. While the leaders might be overruled, the intimate understanding between the leader and the populace was such that no proposal vitally at variance with popular ideas was ever set forth, except perhaps in the case of the announcement of plural marriage in 1852. Criticizing Mormon authority, opponents of the Mormons usually failed to take into account the specific trust of the Mormons in their leaders, and the sense of responsibility held by the leaders toward their people—a conception of inter-responsibility and mutual faith which was certainly a more vital ethical relationship than is ordinarily observed between governors and governed.

Civil and religious rule in the Utah region therefore must not be conceived as separate and distinct institutions, but as dual aspects of a single authority. During the period of existence of Deseret, the solid structure of church organization must be seen as a skeleton supporting governmental authority.

The High Council, from October 3, 1847, to the return of Brigham Young on September 20, 1848, was the ruling authority in the Salt Lake region, and retained considerable power for another year. Owing to the prestige of the apostles, however, the presence of John Taylor and Parley P. Pratt was a qualifying

circumstance. According to John Nebeker, "Father John Smith was looked on as President of the Camp; but Taylor and Pratt took the lead and in fact were in charge."¹⁰ Indeed, on January 16, 1848, "the High Council met with the president (John Smith) to learn whether he would have them and his own council assist him in governing the affairs, or Parley P. Pratt."¹¹ Nevertheless, the High Council retained supreme authority in the Valley, as was instanced on November 7, 1847, when the High Council decided against John Taylor in a dispute with Peregrine Sessions over ownership of a horse, for Taylor had no recourse except to say that he should "appeal to the Quorum of the Twelve."¹² This power of the High Council was affirmed by Brigham Young on February 16, 1849, when he asserted, "The Twelve are not the ruling authorities here; they are as subject to the authorities, to the president of the stake and the High Council, and ought to serve every law and ordinance as much as any other members of the church, the same as if they had no office."¹³

The High Council, which is analogous to informal courts which functioned in early England as an adjunct to the common law, had complete executive, judicial, and legislative powers. After November 7, when five bishops were appointed in five wards through the city, local disputes doubtless were settled in the "bishops' courts" and do not appear in the records. These courts essentially were courts of arbitration, designed to obviate the often expensive and futile recourse to civil law courts, and decisions of the bishops usually were accepted, although they might be appealed to the High Council of the stake, and thence to the general authorities of the church, in whom decision was final.¹⁴ The bishops' courts on the whole were just and their findings satisfactory to the litigants, so that there are cases recorded of non-Mormons submitting disputes for the decisions of the bishops.¹⁵ However, the bishops' courts were not fully developed in the first year of Utah occupation, for the High Council often sat in simple cases of equity.

Almost immediately after its organization, the High Council named committees to handle governmental functions. On October 9, 1847, "Henry G. Sherwood, Albert Carrington, and Charles C. Rich were appointed a committee to draft laws for the govern-

¹⁰Nebeker, *op. cit.*, p. 88.

¹¹Lorenzo D. Young, Journal, quoted in L. D. S. Journal History, January 17, 1848.

¹²L. D. S. Journal History, November 7, 1847.

¹³L. D. S. Journal History, February 16, 1849. The High Council, as an institution of the L. D. S. Church, dates from the revelation issued by Joseph Smith at Kirtland, Ohio, February 17, 1834. It is composed of twelve high priests, presided over by one or three presidents, according to circumstances.

¹⁴In some instances, particularly in later years, the sustained decisions of the bishop's court were to be accepted under the penalty of disfellowship from the Church. See the Journal of Levi Savage, copy in files of the Utah Historical Records Survey, Salt Lake City, Utah.

¹⁵Cf. Howard Stansbury, *Exploration and Survey of the Valley of the Great Salt Lake of Utah*, (Philadelphia, 1852, 487 pp.) p. 130; J. W. Gunnison, *The Mormons*, (Philadelphia, 1852, 168 pp.) p. 65. An authoritative examination of the bishops' courts is found in *Deseret—The Mormon Frontier*, a brilliant socio-historical study of the Mormons now in preparation by Nels Anderson, Washington, D. C.

ment of the people in the valley."¹⁶ On October 17, "Henry G. Sherwood, Shadrach Roundy, and Albert Carrington were appointed . . . to hear and adjust claims in the Old Fort."¹⁷ On October 18, the Council appointed John Young, Charles C. Rich, and Daniel Spencer "to receive the claims on the plowed land and adjust them."¹⁸

Between October and the end of the year, the Council acted for the people in many ways. Certainly most important was the precedent established for legislation with respect to natural resources. It is significant that the first civil regulations decreed for the people, Brigham Young's pronouncements of July 25, had been concerned with the problems of land ownership and the conservation of resources. Young declared that land was neither to be bought nor sold, but apportioned to the settlers for city and farming purposes; the people had to be industrious and take proper care of their land if they were to hold it. Young's second proclamation decreed community ownership of water and timber resources.¹⁹ These proclamations were a consequence of earlier social and economic thinking which had entered into Mormon life; but they were remarkably suited to the economic necessities of life in a desert region. The old common law bearing on individual rights in land and water had necessarily to be abrogated. In reserving all rights in the streams and canyons, as in the land, and requiring the permission of the Council for the erection of mills, the laying out and fencing of land, and the cutting of wood in the canyons and creek bottoms, the Mormons made a substantial contribution to the legal theory of the West, though the greater tendency of Californians to be litigious resulted in the creation of the actual body of irrigation law in that state.

Acts of the council requiring mention are the regulation of trade with the Indians, location of a cemetery, establishment of prices on goods and on the grinding of meal, granting of the first divorce, and purchase from Miles Goodyear, an Indian trader, of lands in the Ogden region which he held on a claimed Mexican grant.²⁰ The first instance of taxation occurred on October 24, when it was decided that "every man in the Old Fort should be taxed sufficient to pay for gates for the same." William W. Willis was appointed to assess and collect the tax.²¹

The authority of the Council, unquestioned by the great majority of the settlers, was enforced by the marshal and delegated

¹⁶L. D. S. Journal History, October 9, 1847.

¹⁷*Ibid.*, October 17, 1847.

¹⁸*Ibid.*, October 18, 1847.

¹⁹Brigham H. Roberts, *A Comprehensive History of the Church of Jesus Christ of Latter-day Saints*, (Salt Lake City, 1930, 6 Vols.) Vol. 3, p. 269.

²⁰The Goodyear grant seems to have been a neat fiction contrived by Goodyear; it does not appear that any Spanish or Mexican grants were ever made in the intermountain region. See Charles Kelly and Maurice L. Howe, *Miles Goodyear*, (Salt Lake City, 1937, 159 pp.), pp. 141-147. See also "Mexican Land Grants in Utah," appendix in *Historical Records Survey. Inventory of the County Archives of Utah*, No. 29, Weber County (Ogden, 1940, 236 pp.).

²¹L. D. S. Journal History, October 24, 1847.

assistants. Fines in criminal and civil cases were collected by confiscation and sale of property in the event the offender did not pay the fine of his own accord,²² although another method was later evolved, as in the case of Ira E. West and Thomas Burns, whom the marshal on March 4, 1849, was authorized "to offer for public sale" during the election on March 12, "that they be made to work until they have paid the fines now due from them."²³ As there were no jails, physical punishment for crime was by whipping. The public whippings were administered at a post on which a public bell had been hung October 25 for calling the people together, and which was variously called the Bell Post or the Liberty Post. John Nebeker, in his capacity as public complainer, had to prosecute one man for stealing a lariat, and then execute the judgment of the High Council, which was \$10 or ten lashes. Although Nebeker offered to help the man pay the fine, the offender refused, and Nebeker had no alternative but to proceed with the whipping. The man evidently was of a legalistic turn of mind, for Nebeker says, "I proceeded to tie him, but he refused to be tied; said it was not in the decision. C. C. Rich was appointed by the Council to see that the whipping was carried out in the spirit and meaning of the judgment. I appealed to him whether he should be tied or not. Rich decided that as the decision did not mention it and the man didn't want to be tied, it was his right to choose for himself, inasmuch as he would stand to be whipped. He said he would stand up to it. He was then told to strip. He refused on the ground that it was not in the decision. But his refusal would not count. He stripped and the lashes were administered in the presence of the people. The penalty for stealing in cases generally, in cases when people would promise to do better, was to make proper confessions and restore four fold, if the person upon whom the theft was committed required it."²⁴

It soon became necessary to establish formal laws. There seems to have been some restlessness among the settlers, and also some disinclination to accept the authority of the High Council. The long period of social unrest through which the people had passed prior to arriving in Great Salt Lake Valley had doubtless had an unsettling psychological effect, and a reaction was to be expected when a sanctuary was reached. One company broke off from the Salt Lake group in October and made its way toward Goodyear's establishment forty miles north; perhaps disquieted by a specter of general breakup of the group, upon the maintenance of which the settlement necessarily depended, the High Council forced the return of this party, which came back reluctantly, grumbling about "so much bondage". These settlers were never recon-

²²*Ibid.*, November 9, 1847, the High Council acting on the case of a Mr. Lawson.

²³*Ibid.*, March 4, 1849.

²⁴Nebeker, *op cit.*, p. 88. Bancroft, *History of Utah*, (San Francisco, 1889, 808 pp.), p. 272, quotes George Q. Cannon as saying, "President Young was decidedly opposed to whipping, but matters arose that we considered required punishment at the time."

ciled, some going to California the following year. Another group the Council finally permitted to go to California in December, in company with Goodyear. Of this unrest John Smith wrote, on March 6, 1848, "We found it somewhat difficult to establish order, peace, and harmony among the saints; after so much mobbing, robbing and traveling through such a dreary country, the minds of many became restless. The fear of starving, etc., came upon them and in addition to this, a company of soldiers [Mormon Battalion members] arrived here destitute of sustenance. They, together with those who were here before in like circumstances, created the uneasiness mentioned.²⁵ But the Lord has been favorable. All have yet been sustained; peace and harmony are again restored and we are getting along first rate."²⁶

Laws formulated in December may have been motivated by the need of a formal civil code for the control of the settlers, particularly since the tradition of written law was so strong among them. Brigham Young advised the passage of "such laws and ordinances as shall be necessary," and six days after the formation of the High Council, on October 9, a committee for drafting laws had been appointed. It was not until December 26, however, that anything definite was done. On that date the minutes of a High Council meeting record: "The first law committee from want of time had failed to report, and Parley P. Pratt, Daniel Spencer, John Taylor, Charles C. Rich, Henry G. Sherwood, and Albert Carrington were appointed a committee to draft such laws as were needed immediately."²⁷

The committee reported next day, whereupon five ordinances were enacted by the High Council of the Great Salt Lake City "in the absence of any organized jurisdiction of any Territory, for the peace, welfare and good order of our community . . . for the government and regulation of the inhabitants of this city and valley for the time being, subject to the approval of the people." These laws were to take effect January 1, 1848. In reference to popular ratification, Robert S. Bliss records, "to day the 1t of Jan a publick meeting was called to adopt Laws for our regulation for the time being or untill the question is settled between U. S. and Mexico & we know whose hands we shall fall into."²⁸

The first of these Ordinances, "Concerning Vagrants", is significant in its bearing upon both the society and the environment; similar laws characterized the society of colonial New Eng-

²⁵Many of the Mormon Battalion members had a hard time. Cf. John Steele, "Extracts from the Journal of John Steele," *Utah Historical Quarterly*, January, 1933, pp. 19-22. When Brigham Young returned in September 1848, he remarked that it was a matter of regret to him "that any of the battalion brethren should have had to suffer, in the Valley, for bread more than their brethren" (L. D. S. Journal History, September 24, 1848).

²⁶"Epistle of the High Council of this City to President Brigham Young and Council," March 6, 1848, quoted in L. D. S. Journal History.

²⁷L. D. S. Journal History, December 26, 1847.

²⁸Robert S. Bliss, "The Journal of Robert S. Bliss with The Mormon Battalion," *Utah Historical Quarterly*, October, 1931, p. 128.

land during the years when colonists were struggling for a foothold in a new land.²⁹

The other four ordinances were simple prohibitory laws: "Concerning disorderly or dangerous persons and disturbers of the peace", offenders to be fined from \$5 to \$500 or to receive on the bare back lashes not to exceed 39 lashes and to be fined not more than \$1000; "Concerning Stealing, Robbing, Housebreaking or maliciously causing the destruction by fire of any property", offenders to receive not to exceed 39 lashes and to restore four fold, and to give security for their future good behavior; and "Concerning Drunkenness, and etc.", prohibiting drunkenness, cursing, swearing, foul or indecent language, unnecessary firing of guns within or about the two forts, unusual noise or noises, or otherwise disturbing the peace, under penalty of being fined not less than \$25.³⁰

Two additional ordinances were passed January 25, 1848, to take effect "from and after sunset" of the 27th. The sixth ordinance decreed that no person was entitled to more fuel than would last him until October 1, 1848, or to more poles or timber than required for his immediate building and fencing needs; and the seventh decreed that no loose livestock should be permitted to run upon the wheat land or to be driven on the road passing through it.³¹

Beginning with the five ordinances of December 27, all such acts are numbered. Unfortunately, the L. D. S. archival records appear incomplete, and aside from those ordinances especially printed, the laws are conjectural. The High Council continued to function as a ruling body at least until January 6, 1849, and may have exercised considerable influence after that time, to as late as December 29, 1849.

The surviving numbered ordinances, all passed during 1849, are the 36th (February 24), providing penalties "for riding horses without leave, driving cattle off the feeding range, &c"; the 66th (March 17), prohibiting stud horses and jacks from running at large; the 76th (April 28), providing for the sale of estray cattle after one month's impounding; the 77th (April 28), requiring the bishops of the several wards to oversee the ditches of the city with respect to bridges and flooding the streets; the 113th (October 20), appointing Jesse W. Crosby sexton of the city; the 121st (November 10), prohibiting the fouling of public water courses; the 122nd (November 10) appointing assistant supervisors of streets; the 125th (November 24), regulating sawmill fees; the 127th (November 24), providing that cattle left in the Estray

²⁹See Appendix B for the text of the surviving ordinances of the High Council.

³⁰L. D. S. Journal History, December 27, 1847. The idea of fourfold restoration of property was a concept combining trespass against the individual with that against the state. The Biblical background is found in Exodus 22:1 and 2, and St. Luke 19:8.

³¹*Ibid.*, January 25, 1848.

Pound one month should be sold for the benefit of the "perpetual poor emigration fund"; and the 130th (December 29), creating an office for the recording of marks and brands.³³

Reference to the available reports on the meetings of the High Council indicates that the following ordinances of general character also were passed: On February 1, 1848, regulations in regard to the use of timber; on March 27, 1848, an ordinance providing for the destitute; on May 15, 1848, an ordinance regulating trade with the Indians, and prohibiting the sale of guns and ammunition thereto; on September 24, 1848, providing that city buildings should be set back at least 20 feet from the sidewalk;³⁴ on September 30, 1848, permitting the felling of all timber adjacent to Salt Lake Valley except in City Creek Canyon; and on the same date establishing a land record and fees for the surveyor and clerk; and perhaps prohibiting the sale or use of "ardent spirits";³⁴ on December 28, 1848, and January 6, 1849, approving a paper currency;³⁵ on January 20, 1849, appointing an armorer and determining that an armory be erected; on February 3, 1849, resolving that the Jordan River be bridged, establishing weights and measures for grain, providing for superintending and apportioning fencing, prohibiting distillation of corn into whisky by reason of destitution in the city, and making special provision for the relief of the destitute; on February 9, 1849, establishing a property tax of one per cent per annum for the construction of roads and bridges, and appointing Albert Carrington assessor and collector, and treasurer;³⁶ on February 24, 1849, appointing Horace S. Eldredge marshal of Great Salt Lake Valley;³⁷ and on the

³³These numbered ordinances were all printed together on four pages (numbered 1-4) as "Ordinances of the Legislative Council of Great Salt Lake City." Two copies are bound into the same volume with the *Ordinances of the State of the State of Deseret*, in the possession of the L. D. S. Church Historian's Office. The 130th ordinance is also printed in *The Deseret News*, July 20, 1850. The 76th and 77th ordinances are dated April 5 in the Journal History. Other ordinances may have been posted from time to time; thus the Journal History records on February 9, 1849, that "the clerks of the Council were instructed to write eight notices, containing the laws made by the Council, for posting up in different places for the information of the public." A number of acts were approved on this date and reference conceivably was to them.

³⁴This rule was approved by the church congregation and did not proceed directly from the Council.

³⁵Bancroft and Colonel Kane refer to this act, but it is not mentioned in the Journal History, or History of Brigham Young.

³⁶Brigham Young had been authorized on December 8, 1848, in a general meeting at the Bowery, to proceed with the issue of currency backed by gold dust from California, which was an unsatisfactory medium for trade. The first bills were issued on January 1, 1849, signed by Young and Heber C. Kimball and countersigned by Thomas Bullock, clerk. The action on January 6 was to legalize issue of the bills of the Kirtland "anti-Banking Society," the Ohio bank which had failed in 1837. By the adoption of this currency the need for creating new currency was lessened, and the prophecy of Joseph Smith, that the Kirtland bills one day would be "as good as gold" thus was partially fulfilled. The settlers were required to accept the currency; thus, on February 3, 1849, the butchers were instructed to accept the currency or give up their business. When gold coins were minted in the late summer and fall therefore, it was in the name of the "Provisional Government of Great Salt Lake City," not "the State of Deseret."

³⁷Carrington held this office less than a month, resigning March 4, whereupon Newel K. Whitney was appointed in his stead.

³⁸For some reason John M. Bernhisel on March 4, was temporarily appointed marshal in Eldredge's stead. Apparently Eldredge later resumed office, for in May, Bernhisel left for Washington, D. C. In connection with the marshal's office, on March 3 it was voted "that Horace S. Eldredge receive a diploma from the council as marshal of the valley of the G. S. L. and that he have the privilege of deputing men to assist him, also that all such documents be signed by the president of the council and countersigned by the clerk."

same date ordering the construction of bridges across the Cottonwood and other creeks; on March 3, 1849, authorizing the organization of a militia, "The Nauvoo Legion", and on the same date setting off a cemetery northeast of the city; on March 4, 1849, appointing ten deputy marshals; on March 10, 1849, approving the settling of Utah Valley by a company of thirty men; on March 31, 1849, appointing George D. Grant to raise a company of mounted men to protect the settlers in Salt Lake Valley; on April 14 appointing George B. Wallace sexton; on April 28, 1849, organizing the Nauvoo Legion, on October 28, 1849, providing for fencing the city into blocks of five and ten acres; and on November 24, 1849, instructing the marshal to inspect the toll roads in the several canyons.⁸⁵

In addition to acts of more general significance, the council approved many special acts granting privileges to particular individuals—mill sites, herding grounds, timber grants, etc. Here also a precedent was established for the legislatures of the State of Deseret and the Territory of Utah.⁸⁶

It is not clear how far these acts proceeded from the High Council after the return of Brigham Young. The L. D. S. archives are not very illuminating, for "Council" continued as a designation after January 6, 1849, just as it had before that date, when it was voted "that the High Council be relieved of municipal duties." It is possible that "council" came to have a more restricted meaning, perhaps referring to Brigham Young and a small circle of advisers (more particularly the Quorum of the Twelve). However, so masterful an executive was Young that, regardless of the personnel of the "council", he was certainly the driving force in its decisions. Still another manner in which binding proposals were approved was that of ratification by the church congregation of propositions placed before it by the leaders, as on September 24, 1848, when Brigham Young and Heber C. Kimball were appointed to apportion city lots, Charles Crisman's property was ordered removed from City Creek in favor of Young, and the distance of city buildings from sidewalks was fixed at twenty feet. The whole

⁸⁵Details in regard to all these acts are found in the Journal History under dates given.

⁸⁶The first such act seems to have occurred on October 4, 1847. At a High Council meeting, "President Smith asked for President Brigham Young's views in regard to building a grist mill on City Creek, Lorenzo D. Young said that Bro. Brigham wished to have the privilege of building a mill on City Creek for his own use, and that if any one else should build a mill there, he would satisfy them for it. Bro. [Henry G.] Sherwood coincided. Ira Eldredge [Eldredge] said that the mill company wished to build on Mill Creek, and that they had no means to spare to build on City Creek, as they perhaps would have to break up and remove to Mill Creek next year. Several members of the Council inferred that to build on Mill Creek would be going too far south, until they knew more about the disposition of the Indians. General [Charles Coulson] Rich and others spoke in favor of indemnifying the Mill Company against all losses. The company then proposed to sell the mill property to the Council, but the Council replied that they were not able to buy." On October 13th the committee reported that they had found a good site on City Creek where Charles Crisman might erect a mill. Two other mill sites were granted, at Warm Springs and on a creek "8 or 10 miles north of the city," and the petitioners were granted permission to cut green timber for building purposes, if they could not find dry timber. The Young reservation of property seems to have been made on August 13, 1847. (See p. 58 of Feramorz Young Fox, *The Mormon Land System*, MS., (232 pp., 1932, master's thesis, copy on file in L. D. S. Church Historian's Office.)

question of social organization and its elaboration becomes incomprehensible unless it is remembered that the essential government was in the church and the church membership, so that any *modus operandi* served the same ends.⁴⁰

The government in Great Salt Lake Valley grew out of the needs of the settlers, and represented a maximum of practical reality and a minimum of political theory, a spontaneous government immediately responsive to popular needs, and accreting such laws and functions as the public good required. Had the Mormons been living in a political vacuum, they might have subsisted indefinitely without a formal political structure of the type of the Provisional State of Deseret.

The Mormons, however, were conscious from the beginning that they were living in no such vacuum. Sooner or later they would have to come to terms with a federal government, with Mexico or the United States, according to the terms of the peace treaties concluding the Mexican War.⁴¹ The Mormons had a profound respect for government and governmental forms, but disrespect for and outright distrust of "the damned rascals who administer the government."⁴² Essentially the problem of the Mormons in the Utah region was to establish themselves under the aegis of a government which would accord them the fullest measure of self rule compatible with the traditions and practices of that government.

The treaty of Guadalupe Hidalgo, signed February 2, 1848, ceded to the United States the whole Alta California claim since known as the Mexican Cession, but the treaty required ratification by the respective congresses, and news of the exchange of ratifications on May 30 had not yet reached Winter Quarters when George A. Smith and Ezra T. Benson, apostles of the church, on June 28, 1848, wrote Brigham Young with respect to the Mormon situation, which, it appears, had been discussed by Young prior to his second and last departure for the mountains.

"... If ... you find it wisdom to petition Congress for annexation as a state in the American union or for Territorial privileges, send the petition to us by some of the brethren coming from your place next fall, or as soon as is convenient, and if you do, we would suggest the appointment of a delegate to Congress, with credentials of his election by the people as the bearer of this petition. If

⁴⁰Subsequent to this first period, other ruling authorities are mentioned which are puzzling unless their practical identity is remembered. Reference is made to a "legislative council" or to a "council of the General Assembly," but these are merely variant names for the essential church authority. Regardless of the name put upon it, this authority fundamentally was unchanging. No legal basis ever existed for "legislative councils," but it was convenient to put this name upon the acts of the ruling authority, which became a "legislative" council through issuance of legislation.

⁴¹The Mormons expected that it was the United States under whose rule they would live. See Roberts, *op. cit.*, Vol. 3, pp. 414-422.

⁴²Brigham Young's reply to Perry E. Brocchus, quoted in L. D. S. Journal History, September 8, 1851. In American life at this period, the Constitution and the Bible were the final authorities to prove everything. It is both logical and significant that the Mormons frequently praised the Constitution and considered themselves its primary defenders. They came to regard themselves as its only true adherents; comment will be made later on this point.

the petition was favorably received he might be admitted to the floor of the lower house; if not he would be considered the accredited agent of the people and be heard in any of the committee rooms. As the Mexican Congress has refused to ratify a treaty of peace with the U. S., which Government may finally have jurisdiction over the basin it is impossible for us at present to tell; but as we are in possession of the soil our destiny would be independence should Mexico maintain her old lines. We are not particularly in favor of either plan, but are willing to abide your better judgment, and are willing to use our humble endeavors to the utmost in carrying out any project you may desire for the establishing of the 'kingdom of God and his Laws.'

"We would say that Territorial or State powers would give us facilities for doing business by agents in the U. S. and thus save great expense and loss; but we go in, for once in all our life, if possible, to enjoy a breath of sweet liberty and independence. . ."⁴³

Funds secured through providing the federal government with a battalion of troops for service in the Mexican War had been instrumental in financing the westward migration of the Mormons in 1847, and now the further benefits accruing from the services of the Mormon Battalion became an additional influence stirring the Mormon leaders to establishment of a government sanctioned by Congress. A letter from Smith and Benson on October 10 touches upon this matter as upon the delicate problem of getting the right kind of government and the right kind of office-holders.

" . . . In our letter of July 1st [June 28] we wrote on petitioning Congress for a Territorial Government, not expecting the ratification of the treaty had taken place. We are aware that you are under great difficulty for the want of a Judiciary Department through which you can do business with the United States; as no soldier can get his land warrant, extra pay or widow her pension, without a magistrate and public seat. This no doubt involves, thousands of dollars which our people might have the benefit of, could they have this legal communication, but the manner which our Government treated the people of Oregon Territory was to furnish them with a set of starved office seekers, hungry for a loaf from some quarter to be governor, judges and big men, irrespective of the feelings or rights of the hardy emigrants who had opened the country, made the roads, killed the snakes, etc., etc. Should the Democrats retain the ascendancy, which is not improbable, though uncertain, we may expect in reply to a petition a hungry hoard of coching sycophants in the shape of big men to feed out of our crib. But for our part I would rather lose a few acorns, that we never had hogs to eat, than to have the wolves devour our sheep. We do not wish to dictate to you in this matter, any meas-

⁴³L. D. S. Journal History, June 28, 1848.

ure you may see proper to enter upon in relation to government matters [we] shall endeavor to carry out in good faith, as far as required of us. We believe that God will overrule all these things for the good of the saints, and this is the way we get along with our own politics. . . ."⁴⁴

Evan M. Greene, a nephew of Young, on October 7, 1848, wrote his uncle from Kanesville on the same matters, offering still another plan: "You spake last spring relative to petitioning Congress for a territorial government in the Valley. . . Having watched with a cautious eye the movements . . . of the political figures for the past six months I have . . . come to the conclusion that it is best for this people at the present, not to send such a petition to Congress. But let some judicious wise man go to California, and feel of Governor Wriley,⁴⁵ and see what can be done with him as to appointing district court, and organizing a judicial district in the Valley under the Territorial Government of California.

"Or if you would prefer it, send a judicious man to Congress to log role with old coons of the White House a season, and ascertain from that source reliable information, as to an appointment of governors, etc.

"If we send a written petition there, we may expect that some sycophant of an office seeker will be sent over for us to support, who will gull us of our means and take from us our rights as free men, etc. . . . I believe more can be done for the benefit of this people and the quicker settlement for the benefit of those of the Battalion who do not wish to come down here, with the United States by applying, as I said, to Governor Wriley, [sic] than by applying to Congress. . . ."⁴⁶

Of its own initiative Congress was in no hurry to provide for the territory newly ceded by Mexico. California was being sufficiently governed by military governors appointed by the war department, and although on December 11, 1848, a resolution was introduced into the House of Representatives inquiring "into the expediency of so dividing the Territory of Upper California as to organize and extend a district Territorial Government over that portion of said Territory which includes the white settlements in the vicinity of Salt Lake," this resolution was merely referred to a committee which on January 3, 1849, made an adverse report which caused the resolution to be tabled.⁴⁷ The Utah region was thus left to its own devices, and nothing was done for California except that, to the exasperation of the Californians, the revenue

⁴⁴*Ibid.*, October 10, 1848. This letter was written from Kanesville, Iowa.

⁴⁵Brigadier General Bennett Riley (not Wriley) had been appointed military governor of California to succeed General Persifer F. Smith. Actually a military governor, Riley was instructed to rule as head of the already existing civil government, relic of Mexican rule. Riley arrived in San Francisco, April 12, 1849.

⁴⁶L. D. S. Journal History, October 7, 1848.

⁴⁷*Congressional Globe*, Vol. 20, pp. 26, 147.

laws were extended over the region and San Francisco was made a port of entry.

By early December Brigham Young had evidently decided that an effort should be made to induce Congress to grant a territorial government. While the plan advanced by Evan Greene might have served its immediate purpose, sooner or later the problem of the relationship of the Salt Lake settlements to the national government would have to be solved, and the people stood a better chance of getting a satisfactory government if they took an active initiative toward the formation of such a government than if they simply awaited the pleasure of Congress, which at this time as at most other times in history was neither especially conversant nor especially patient with the problems of the West.

On December 13, 1848, therefore, "Brigham Young, Heber C. Kimball, Willard Richards, John Taylor, Dr. John M. Bernhisel, Joseph L. Heywood, Daniel H. Wells, Wm. W. Phelps and Thomas Bullock spent part of the day in the office reading over the several forms presented as memorials to Congress. None were accepted except that which was dictated by Willard Richards. After reading it several times, it was approved." This memorial had been dictated two days previously to Thomas Bullock.⁴⁸

A singular feature to this memorial is that signing of it began December 10, before the text was written.⁴⁹ Evidently signatures were gathered during the next three months. On March 27, 1849, it is recorded that Thomas Bullock "spent part of the day copying names to petition for Territorial government." Not until April 30, however, was the memorial re-signed, by Brigham Young, Heber C. Kimball, and Willard Richards. The document was twenty-two feet long and bore 2,270 signatures.⁵⁰ Bernhisel had been authorized by the council on April 5 to draw on the public treasury for such money as he required for his mission east to present the memorial to Congress, and on May 3 he left Great Salt Lake City, carrying, besides the memorial, a mail of 31 letters.

This memorial addressed Congress as from "residents of that portion of North America commonly called Eastern California," and requested Congress to charter "a Territorial Government of the most liberal construction authorized by our excellent Federal constitution, with the least possible delay, to be known by the name of Deseret." Reasons given why such a government should be organized were that the memorialists were so distant from any civilized society and organized government, and so far isolated by "natural barriers of trackless deserts, everlasting mountains of snow, and savages more bloody than either" that it would never be possible to unite them with any other portion of the country in territorial or state legislature with advantage to themselves or

⁴⁸*L. D. S. Journal History*, December 13, December 11, 1848.

⁴⁹*Ibid.*, December 10, 1848.

⁵⁰*Ibid.*, March 27, April 30, 1848.

others; and that the soil was so sterile, requiring the utmost exertion to procure subsistence, that the markets were so distant as to make merchandise obtainable only at great expense, that Indians had already commenced depredations, and that the memorialists, by their arms and influence, had done more than any other equal body of citizens to obtain and secure this country to the Government of the United States

The proposed boundaries for the territory included all lands and waters, "with all privileges immunities and advantages thereunto belonging, lying between Oregon and Mexico, and between the Sierra Nevada and the 27th degree longitude west of Washington W. L. or more particularly bounded and described as follows, to wit, commencing at the Rio Grande Del Norte, at its crossing of the 32 degrees N. L. (or the northern line of Mexico), thence running west on the 32 degrees (or the northern line of Mexico), to the Pacific Ocean; thence along the coast northward to the 42 degrees W. L. thence on said 42 degrees to the Sierra Nevada; thence continuing along the summit of the Sierra Nevada, or Snowy Mountains, to the 42 degrees N. L. thence running east by the southern boundary of Oregon to Green river; thence northerly up the main channel of Green River to the 43 degrees N. L., thence east on Washington; thence south along said degree to 38 degrees N. L.; thence west on said degree to the Rio Grande del Norte; thence southerly down the main channel of said river, to the place of beginning."

Regardless of all the trouble which had been taken in regard to this memorial, however, it was never presented, for reasons which will presently be examined.⁶¹

II. THE STATE OF DESERET—(1849-1851)

Meanwhile, an effort was made to establish a government more nearly in conformance with American traditions. Discussing the motives back of the establishment of such a government, Bancroft says that there was already among the Mormons a small leavening of Gentiles (non-Mormons) and that this number in time could be expected to increase; these people would not be amenable as were the Mormons to church control, and if the Mormons did not establish a civil government, the incoming Gentiles would. But in February, 1849, the first gold-seekers, with all the multifarious problems of that emigration, were still four months away from Great Salt Lake City, and the tremendous impact of the gold rush upon the West could hardly have been foreseen by church authorities, regardless of the fact that news of the California gold discoveries had been spreading since James Marshall

⁶¹It will be seen that W. A. Linn (*The Story of the Mormons*, Boston, 1902, 637 pp.), p. 428, is absurd in contending that proclamation of the Treaty of Guadalupe Hidalgo on July 4, 1848, made Young decide that he wanted an independent state government, not territorial rule under federal authorities.

identified the first gold in Sutter's mill races on January 24, 1848. While it is probable that the Gentile admixture was an influence, certainly the strong traditions of American civil forms among the Mormon populace must have been sufficient incentive for the creation of a more formal government.⁶³

Nevertheless, some extraordinary informalities attended the organization of the Provisional State of Deseret, informalities which would be quite incredible in any other context.

The first step toward the formation of this government was taken on February 1, 1849. On that date a notice, signed by "many citizens," was made public. "Notice is hereby given to all the citizens of that portion of Upper California, lying east of the Sierra Nevada Mountains that a convention will be held at the Great Salt Lake City, in said Territory, on Monday, the fifth day of March next, for the purpose of taking into consideration the propriety of organizing a Territorial or State government. Dated at the Great Salt Lake City, Great Basin, North America, this first day of February, 1849."⁶⁴

But on the day prior to the meeting of this convention, Sunday, March 4, action in regard to the proposed provisional government was taken quite independent of the deliberations of the convention. "The council met in Heber C. Kimball's house at 9:30 a. m., and voted that the marshal give notice to the people of the valley of the G. S. L. and vicinity, that a public meeting would be held at the meeting ground in the old Fort, on Monday, the 12th day of March, at 10 o'clock a. m., for the purpose of electing and appointing officers for the government of the people in the valley until the petition of the people be granted by the United States for a Territorial Government." At an afternoon session, "The subject of nominating officers for election for a provisional government was presented," whereupon it was voted that "the names already approved be brought before the people for their ratification."⁶⁵

The procedure in connection with this election and the nomination of candidates is significant in its bearing upon what has been said in regard to the character of the Mormon government. The people had no real need for another kind of ruling authority, and it would have seemed quite absurd to ask the people to nominate candidates from their ranks; the whole force and form of the Mormon social organization would have made any other choice

⁶³Bancroft's error (*op. cit.*, p. 287) in declaring that a county government was organized in Salt Lake Valley in 1848 should be pointed out. The government to which he refers actually was formed in Pottawattamie County Iowa, October 31, 1848. For comment on the gentile considerations, see Stansbury, *op. cit.*, pp. 131, 132.

⁶⁴*Constitution of the State of Deseret*, p. 1. This volume contains a copy of the constitution and an abstract of the Journal of the constitutional convention, as printed at Kanesville in 1849 by Orson Hyde, for presentation to Congress. The constitution is identical, except for minor matters of capitalization, with that printed in the *Ordinances of the State of Deseret*, and here reprinted. This volume is in the possession of the L. D. S. Church Historian's office. The "many citizens," incidentally, are not specified by name or number.

⁶⁵L. D. S. Journal History, March 4, 1849.

but the church authorities quite out of the question. Franklin D. Richards, a member of the Quorum of the Twelve Apostles, expressed the Mormon viewpoint in later years: "Theoretically church and state are one. If there were no Gentiles and no other government, there would be no civil law."⁵⁵ Therefore the church authorities now named the candidates suitable to the exigencies; William W. Phelps, Amasa M. Lyman, John Taylor, Parley P. Pratt, and Jedediah M. Grant were appointed a committee "to fill out a ticket for the ensuing election," and it was voted that the names of bishops should be placed on the list as magistrates for their respective wards in the city and vicinity. Daniel Spencer, David Fullmer, and Willard Snow were appointed judges of election. This election occurred on the 12th, and between the time of this council meeting and the election, the Constitutional Convention organized and completed its work.

On Monday, March 5, 1849, "In pursuance of public notice, heretofore given, a large portion of the inhabitants of that portion of Upper California lying east of the Sierra Nevada Mountains, met at the Great Salt Lake City, and organized themselves into a Convention, by electing Daniel Spencer, Chairman; William Clayton, Secretary; Thomas Bullock, Assistant Secretary of said Convention; and Horace S. Eldridge [Eldredge], Marshal.

"After several addresses and deliberations, the said Convention proceeded to appoint a committee of ten, to draft and report to said Convention, a Constitution, under which the inhabitants of said Territory may organize and govern themselves, until the Congress of the United States shall otherwise provide by law. Whereupon the Chairman of said Convention, appointed Albert Carrington, Joseph L. Heywood, William W. Phelps, David Fullmer, John S. Fullmer, Charles C. Rich, John Taylor, Parley P. Pratt, John M. Bernhisel and Erastus Snow, members of said committee; after which the Convention adjourned, until Thursday, the 8th day of March, at 10 o'clock, A. M., to receive and deliberate upon the report of said committee."⁵⁶

On the 8th, before the Convention, Albert Carrington, chairman of the committee, reported the preamble and constitution, whereupon the report was accepted and the committee discharged. The following day the convention met "and immediately proceeded to the consideration of the Constitution as reported by the Committee, on the reading of which, Willard Snow, Esq., moved its adoption; after many speeches, suggested amendments and alterations, Convention adjourned until Saturday, at 10 A. M." On the 10th, "The subject of the Constitution being still under consider-

⁵⁵F. D. Richards, *Reminiscences*, MS., p. 87, quoted in Thomas C. Romney, *The State of Deseret*, MS., (232 pp.), Ph. D. thesis, (1925) on file at L. D. S. Church Historian's office. This thesis contains useful material on the social and economic development, and comment on the important personalities of Deseret.

⁵⁶*Constitution of the State of Deseret*, p. 1.

ation, and the previous question being called for, it was unanimously carried, and the Constitution adopted. On motion of W. W. Phelps, Convention adjourned without date."⁸⁷

As the preamble and constitution are here printed in full, no extended comment will be attempted concerning the governmental structure erected. The constitution differed in no important particular from the constitutions of most other states, although the "free and independent" phrase inevitably attracted critics (e.g., Mrs. C. V. Waite, in *The Mormon Prophet and His Harem*, 1866). Nevertheless, comment should be made on some sidelights to this document. The provisional state derived its name from a *Book of Mormon* term, "deseret," meaning "honey bee."⁸⁸ The boundaries as described in the constitution were truly immense, comprising virtually all of modern Utah, most of modern Nevada and Arizona, much of modern Wyoming, Colorado, and New Mexico, small portions of modern Oregon and Idaho and all that portion of southern California between the Mexican border and 118° 30' west longitude, including the sea coast in the vicinity of San Diego, which was to serve as a seaport. These boundaries were slightly more modest than those which had been described in the memorial for a territorial government. In restricting the suffrage to "white male residents," the constitution ended a nominal suffrage women previously had possessed through the practice of congregational voting. Mormon writers have sometimes thought this instance of female suffrage unique, except in the case of New Jersey, but throughout colonial New England women commonly possessed similar voting privileges until the evolution of restrictive laws in the 18th and 19th centuries. In New Jersey the constitution was loosely drawn, and the vote was granted to "all inhabitants," in consequence of which women, like negroes and aliens, often voted at the polls until 1844.

Certain informalities may be observed. It was provided that elections for "members of the General Assembly, and other officers under this Constitution," should be held on the first Monday of May next (May 7, 1849), but this election had been all mapped out, and the officers designated, even before the Constitutional Convention met, and this election was held, not in May, but on March 12, 1849, two days after the Convention concluded its work. The election was held in the Bowery in Great Salt Lake City, and 674 votes were polled in favor of the following ticket:

Governor, Brigham Young; secretary of state, Willard Richards; chief justice, Heber C. Kimball; associate justices, Newel K.

⁸⁷*Ibid.*, pp. 10, 11. Some confusion has arisen over the date of the convention, many sources giving March 15 as the date of appointment of the committee of ten and March 18 as the date of adoption of the constitution. The errors seem to have arisen from misprints in *Laws of Utah*, 1853, wherein the constitution and certain of the ordinances of Deseret were reprinted. The earlier date, as given in the printed journal of the convention, is confirmed by Stansbury, *op. cit.*, p. 127.

⁸⁸"The Book of Ether" in *The Book of Mormon*, (Salt Lake City, 1920 ed.), p. 480.

Whitney and John Taylor; marshal, Horace S. Eldredge; attorney-general, Daniel H. Wells; assessor and collector, Albert Carrington; treasurer, Newel K. Whitney; supervisor of roads, Joseph L. Heywood. Magistrates were also elected for eighteen wards in Great Salt Lake City and for Weber River, North Cottonwood (Farmington), North Mill Canyon (Bountiful), South Cottonwood, Big Cottonwood, and Mill Creek precincts.⁵⁹

There is no mention here of members of the general assembly nor of a lieutenant governor, and the L. D. S. archives supply no information concerning another election, although entries are recorded for May 7, the scheduled date of election. According to the constitution, the judiciary were to be elected by the General Assembly rather than by the people, but this provision seems to have been conveniently ignored. It is also worthy of comment, in connection with the judiciary, that no qualifications as to legal training were set up. This omission is significant when it is remembered that the Mormons regarded lawyers as an abomination. Daniel H. Wells, who was designated attorney-general, had served as a justice of the peace in Nauvoo but had no formal legal training; this was, perhaps, regarded more as an advantage than otherwise. The judiciary had no legal background whatever, but all three men were possessed of great practical experience and trusted by the people, and therefore were eminently qualified, in the homely sense, for judicial office. Indeed, there was no occasion for a jury trial in the region until January 3, 1851, when in Great Salt Lake County some transients were arraigned and convicted for stealing.⁶⁰

In the Bill of Rights was placed an explicit guarantee of religious liberty; such a provision must have had a peculiar force for these people.

An additional matter of interest is that except for the governor (Article III, section 12), no provision was made for remunerating office holders. Officials served at their own expense. In this respect, at least, Deseret differed from most governments the world has seen.

The Mormons very simply had elaborated their ecclesiastical machinery into a political government. Brigham Young, president of the church, was governor; Heber C. Kimball, first counselor, was chief justice of the supreme court and, presently, lieutenant-governor; and Willard Richards, second counselor, was secretary of state. Thus the members of the First Presidency became the most

⁵⁹L. D. S. Journal History, March 12, 1849. There were nineteen wards in Great Salt Lake City, but no magistrate was elected for the Eighteenth Ward, which had not yet been organized and had no bishop.

Heber C. Kimball, Newel K. Whitney, and John Taylor, as the Judiciary, were replaced next year. On January 26, 1850, Brigham Young, meeting in council with "Elders Heber C. Kimball, Willard Richards, George A. Smith, Newel K. Whitney, Daniel H. Wells, and E. T. Benson" (all members of the Twelve except Whitney, who was presiding bishop of the church) nominated Daniel H. Wells, Daniel Spencer, and Orson Spencer for judges of the Supreme Court. (Journal History, January 26, 1850.) Nomination, of course, was equivalent to election.

⁶⁰*Ibid.*, January 1-3, 1851.

powerful civil officers. The only other apostle named to office was John Taylor, although Newel K. Whitney, as presiding bishop of the church, exercised great authority within the church. Although collectively the apostles were the essential power in the church, they were not necessarily the men most fitted for civil office, and as the apostles were subject to constant call to oversee church affairs in distant parts of the world, it was a wise policy to look for officials elsewhere than in their ranks.

Pursuant to the provisions of the constitution, the General Assembly of the State of Deseret met for the first time on Monday, July 2, 1849.⁶¹ "The members of the House of Representatives assembled at the Great Salt Lake City, and being called to order by Daniel Spencer, Esq., the Chairman of the Convention; Robert Campbell was appointed clerk, pro tem. The following members presented their credentials, were duly qualified, and took their seats; viz.: Willard Snow, David Fullmer, Philip B. Lewis, Parley P. Pratt, John S. Fullmer, Charles Shumway, John Taylor, John Pack, Joel H. Johnson, Lorenzo Snow, Simeon Andrews, John Murdock, Ira Eldridge [Eldredge], John Van Cott, Joseph A. Stratton, George B. Wallace, Daniel H. Wells, Jedediah M. Grant, Jefferson Hunt, Daniel C. Davis, Franklin D. Richards, Isaac Higbee, Isaac Haight, William Hickenlooper, Seth Taft, and Hosea Stout.

"The chair gave notice to the House, that a majority of all the votes of the people had been given for the adoption of the Constitution; and that Brigham Young had received a majority of all the votes given for Governor; Heber C. Kimball, for Lieutenant Governor, Willard Richards, Secretary of State; William Clayton, Auditor of Public Accounts and Expenditures; Joseph L. Heywood, Treasurer; whereupon the House appointed a committee of three, viz.: Daniel H. Wells, J. M. Grant, and John S. Fullmer, Esqs., to wait upon those gentlemen.

"The House then proceeded to organize by electing Willard Snow, Esq., Speaker, Albert Carrington, Clerk; John D. Lee, Assistant Clerk, and George D. Grant, Sergeant-at-Arms. The Chairman conducted the Speaker to his seat, whereupon, the House adjourned until Tuesday, 3rd inst., at 10 A. M."⁶²

On July 3, the House met, and after the reading of the journal, the committee appointed to wait upon the governor, lieutenant-governor, secretary of state, auditor of public accounts, and treasurer introduced them to the House, whereupon the Speaker of the House administered the oath of office to each, according to law. Upon motion of John Fullmer, the following resolutions were offered by the House for the concurrence of the Senate:

⁶¹It would be interesting to know how the members of the General Assembly were selected. There is no record of an election.

⁶²"Abstract of Journal of the House," in *Constitution of the State of Deseret*, p. 11.

"Resolved, That the General Assembly of this State, memorialize the Congress of the United States, for a State, or Territorial Government.

"Resolved, That a select committee of three, on the part of the House, and of two, on the part of the Senate, be appointed to meet in joint committee, to draft said memorial.

"Resolved, That the General Assembly of this State, elect a delegate to the Congress of the United States, to present said memorial, and represent the interests of this State in that honorable body.

"Resolved, That the Senate meet the House of Representatives, on Thursday, the 5th inst., (the 4th being our national anniversary,) in joint ballot, to elect said delegate, in all which, the concurrence of the Senate is requested."

Lorenzo Snow, Jedediah M. Grant, and John Taylor were appointed the House committee by the Speaker.⁶³

Meanwhile the Senate had also organized. On July 2 the Senate chose Newel K. Whitney president pro tem, Thomas Bullock clerk, and John Scott sergeant-at-arms. The following Senators presented their credentials, were qualified, and took their seats: Isaac Morley, Reynolds Cahoon, Newel K. Whitney, John Smith, Phineas Richards, Shadrack [Shadrach] Roundy, William W. Phelps, John Young, Daniel Spencer, Joseph Fielding, Cornelius P. Lott, David Pettigrew, Abraham O. Smoot, and Charles C. Rich. On the 3rd a committee of three, Daniel Spencer, Joseph Fielding, and Cornelius P. Lott, waited upon the lieutenant governor and notified him of the Senate organization, whereupon this officer was introduced into the chamber and conducted by the president pro tem to his seat. The resolutions by the House were then read and at once concurred in.⁶⁴

On the 5th each house met separately and then convened in joint session in the House chamber, when Almon W. Babbitt was elected delegate to Congress. Thereupon the House adjourned until the 6th and the Senate until the 9th. Before the House Lorenzo Snow, chairman of the joint committee, reported the memorial to Congress, which was accepted and referred to the Senate. The Senate met on the 9th and approved the memorial, thus completing the business of the first session of the General Assembly of the State of Deseret.⁶⁵ It is noteworthy that no effort was made toward providing civil laws and institutions at this session; the whole purpose of the session seems to have been elementary organization of the state on the one hand and an effort toward influencing Congress on the other.

The memorial to Congress advanced as arguments why Des-

⁶³*Ibid.*, p. 12.

⁶⁴"Abstract of Journal of the Senate," in *Ibid.*, p. 13.

⁶⁵"Abstract of Journals of the Senate and the House," in *Ibid.*, pp. 13, 14.

eret should be admitted into the Union, that all political power is inherent in the people, that inhabitants of a region are best qualified to judge the type of government suited to their needs, that the inhabitants of Deseret had organized a government in the absence of any government sanctioned by Congress which imposed a higher law than that of "the revolver and the bowie knife" to protect "person, property, character, and religion", and that the swarming gold emigration had made such an organization imperative, and that Deseret was so distant and so difficult of access as to render incorporation into any other state or territory a practical impossibility. Congress was therefore asked by the memorialists "to favorably consider their interest; and, if consistent with the constitution and usages of the Federal Government. That the constitution accompanying this memorial be ratified, and that the State of Deseret be admitted into the Union on an equal footing with other States; or such other form of civil government as your wisdom and magnanimity [sic] may award to the people of Deseret; and, upon the adoption of any form of government here, that their delegate be received, and their interest properly and faithfully represented in the Congress of the United States."⁶⁰

On July 19 Brigham Young wrote Orson Hyde at Kanesville noting that by this time Hyde doubtless had begun cooperating with Bernhisel in regard to effecting a territorial organization, adding:

"Since the Dr. has left we have continued to agitate this subject until it has resulted as you will perceive by accompanying documents into a regular state organization. We could not well await the tardy operations of the Federal Government without adopting some form suited to our present necessities, and had in part adopted our present form before our last communication to you.

"We have now completed our organization so far as to elect a delegate with whom we expect your co-operation in obtaining our admission as a sovereign and Independent state into the Union upon an equal footing with the original states.

"That delegate is Almon W. Babbitt who is somewhat acquainted with many of the members of Congress especially on the other side of politics. [The Democrats.] This may prove beneficial to our cause, but we principally rely upon you, and consider that the Lord had directed you to pursue that course which is best calculated to give you influence with the present administration, our present object to accomplish.

"In regard to the Wilmot Proviso, Slavery, etc., we wish you distinctly to understand, that our desire is to leave that subject to the operations of time, circumstances and common law. You

⁶⁰The memorial may be found in full in *Constitution of the State of Deseret*, pp. 14-16, and in *L. D. S. Journal History*, July 6, 1849, as also in *Millennial Star*, Vol. 13, pp. 23-25.

might safely say that as a people we are averse to slavery, but that we wish not to meddle with this subject, but leave things to take their natural course . . . ⁷⁰⁷

The care with which the question of slavery was approached is significant, as will be seen, for the flame of this controversy was hot enough to shrivel every proposal which came within its light.

On the day after writing Hyde, Young also wrote Oliver Cowdery, who had been associated with Joseph Smith in the First Presidency of the Church until his excommunication in 1838, and who had just rejoined the church, requesting him to cooperate with Babbitt in securing the admission of Deseret; Cowdery was occupied with church business in Missouri at the time, however, and died at Richmond, Missouri, March 3, 1850, before being able to offer any effective aid. More significant for Deseret is the letter written July 25 by Willard Richards to Colonel Thomas L. Kane, one of the staunchest friends the Mormons ever had.

Richards remarked on the growth of the "sapling" of a territorial government to the "mountain pine" of the State of Deseret, continuing: "Under this provisional state government we are fully organized, and Almon W. Babbitt, Esq., goes out as our Delegate to Congress. Yet, we rely on the co-operation of Messrs. Bernhisel, Hyde, and Oliver Cowdery, and others of diversified politics, who in that respect truly represent the mass of Deseret, and in a large house it is necessary there should be a great variety of servants, to keep everything in order. We have not withdrawn our firm reliance on the cooperation of Col. Kane, relative to any measures we may wish to move, in government, since the first moment of our acquaintance, neither do we expect to while time lasts, for his perseverance ever appears of the same stamp as our own—eternal. Of slavery, anti-slavery, Wilmot provisos, etc., we, in our organization, have remained silent, left them to the operation of common law. Yet, if Ex-president Polk will come out on Free-soilism, he will go into the chair again. Will Col. Kane look to this thing? Our vote once exalted him—it is ready to do it again, hoping to see our tried friend, T. L. K., Secretary of State. Go ahead, is our motto . . . ⁷⁰⁸

Babbitt left Great Salt Lake City for the east on July 27. His work in Washington, with that of Bernhisel, will presently be examined. Developments in Deseret during the next year were virtually independent of the work being carried on in the east in behalf of the provisional state, and will therefore be examined

⁷⁰⁷L. D. S. Journal History, July 19, 1849. The previous letter to which reference is made was written April 12, and read in part, "Dr. Bernhisel will take our petition for a Territorial Government, a copy of which we now forward you that you may gather all the names possible and have them ready to add to our petition when the doctor arrives, to whom we wish you to render all necessary assistance in helping him on his mission through the States." It is not surprising that citizens living in Iowa should be asked to sign the memorial from Deseret, for those citizens were bending every effort toward reaching Deseret.

⁷⁰⁸*Ibid.*, July 25, 1849.

before the Washington negotiations and developments are taken up.

Although the authorities had decided to press strongly the argument for which Babbitt was spokesman, they remained receptive to any opportunities by which they might accomplish their ends. Upon the arrival, on August 30 in Great Salt Lake City, of General John Wilson, General Indian Agent for the California region, the First Presidency wrote Amasa M. Lyman, church leader in California, to support a plan advanced by Wilson.

This proposal, which Wilson explained as having been conceived by President Zachary Taylor to evade the difficulties of admitting new states to the Union over the opposition of slavery advocates, was that the entire California territory be admitted as a state, the option remaining with the people as to whether it should be a slave or free state, "thus taking the bone from the Congress of the United States, and leaving them to pursue their course, 'peaceably if they can,' undisturbed by this exciting question."⁶⁹ It was believed advisable that the territory should be divided into two states, but that the sparseness of the population precluded such a development at this time. It was further argued that all parties would agree to such a state if it were a free state, even the hot southerners yielding a point for the sake of preservation of peace in the Union. The proposal was held impractical, however, without the cooperation of the people of Deseret, for the voting weight of this people was necessary to counterbalance the southern sympathizers in California who might otherwise set up conflicts in that region. The letter to Lyman remarks, "It is . . . their policy to seek our influence, and we need not add it is our policy to use theirs."

For the people of Deseret the crucial part of the whole proposal was set forth in the following paragraph: "We are to have a general constitution for two States. The boundaries of the one mentioned by us, before referred to, is our State, the other boundaries to be defined by the people on the coast, to be agreed upon in a general convention; the two States to be consolidated in one and named as the convention shall think proper, but to be dissolved at the commencement of the year 1851, each having their own constitution, and each becoming a free, sovereign, independent State, without any further action of Congress."

Instructing Lyman to act with General Wilson and a Mr. [William?] Picket as delegates to cooperate with the Californians in such a plan, the authorities nevertheless firmly reminded Lyman, "You will see the necessity of being particular in the clause pertaining to the dissolution of the State into two; this must be em-

⁶⁹President Taylor seems to have been consistent in this matter. The Indian Agent to New Mexico, James S. Calhoun, on his arrival in that region in the spring of 1849, declared he had secret instructions from the federal government to induce the people to form a state government, to settle the questions of slavery and the Texas boundary. See H. H. Bancroft, *A History of Arizona and New Mexico*, (San Francisco, 1889, 829 pp.), pp. 446, 447.

phatically adhered to; this is the basis of our safety and peace. You may consent to the adding of the Wilmot proviso, or any other clause that your judgment may point out, but these grand landmarks must not be departed from, though the Wilmot proviso and such like things properly belong to common law, and not to constitutions. There must be no power, from any quarter, to alter the Constitution till after the dissolution of the State, and there must be no doubt of our becoming a State at the commencement of '51. without any further action of Congress."

That Mormon acceptance of Wilson's proposal was purely opportunistic is sufficiently attested by further lines of this letter. "The present is a favorable moment for us to secure a State charter. Should the Wilmot proviso, or slave question, by any means, become settled before our admission into the Union, politicians might feel themselves more independent, and our interest might not lie so near their hearts.

"Our minus population is the only serious objection to our admission into the Union, independent of Western California, but notwithstanding this, we shall continue to press our suit at Washington for independence, hoping to obtain the same before the joint petition from your western Convention arrives there. Should such an event occur, it can do neither party any harm, for the west will then come in alone. No man in all our councils will consent for a moment to wear a broken yoke. Should our petition, which has gone forward, fail, the one here proposed will catch us, and before the yoke of the consolidated State can reach over the Sierra Nevada and fasten on us, 1851 will arrive, and the yoke will be broken. Thus, while government is using us to save the nation, we are using them to save ourselves."

The concluding paragraph has become famous: "Don't get too much in a constitution, lest it tie your hands. This has been the grand difficulty with almost all constitution-makers. The grand desideratum of a constitution is to be unalterable by the power that grants it, i. e., perpetual, and that the people under that constitution can alter or amend the same at their election. But in case of a consolidated state, the constitution must bona fide remain unalterable during the consolidation. These are the great essentials and will do well, if there is not too much of other things. But even the Wilmot proviso, and many other things, may be admitted, if necessity require, for they will find their remedy in future amendments."⁷⁰

The state thus proposed is truly stupendous to contemplate, embracing perhaps a sixth of the entire modern area of the United States. But California has been no more patient than Deseret under the dilatory action of Congress, and, additionally, California had been filled by the gold-rush with hard-bitten individual-

⁷⁰L. D. S. Journal History, September 6, 1849.

ists who lacked the bitter Mormon political experience of tacking against adverse winds, and were by no means disposed to compromise in their political convictions. In the same month that the letter was written to Lyman, the Californians set about establishing a government of their own.

The California experience differed in important particulars from that of Deseret. In the Utah region there was no functional law or white society until the Mormons introduced both. Deseret was an original structure from the ground up, while California inherited a complex of Spanish and Mexican law; the body of law evolved for Deseret perhaps had a greater homogeneity and simplicity. The gold rush was unselective; it plucked participants from every kind of society. California was a cultural melting pot from which diverse individualistic views, tempered by the native California culture and the imported American traditions, brought forth a new society and new laws. The process of precipitation and resolution for the Mormons had, on the other hand, already taken place in Nauvoo. The only further change was the specific adaptation enforced by the new and difficult frontier. Some attention will be given hereafter to the persistence of Nauvoo law and institutions in Deseret.

The formation of the California provisional government requires some mention. When Brevet Brigadier General Bennett Riley arrived in San Francisco on April 12, 1849, he found already under way a movement for the creation of a new government. The people of San Francisco, at a meeting on February 12 following considerable agitation of varied character, had resolved to elect a legislative assembly of fifteen members to make such necessary laws "as did not conflict with the constitution of the United States, nor the common law thereof." Such an election was held on February 21, but since the government had no such social authority as that of the Mormons, and was entirely lacking in powers of enforcement, it made little headway.

Riley's soldiers promptly stampeded to the gold fields, leaving him quite as helpless to enforce his authority as the San Francisco assembly, but his word carried more weight. He at once "endeavored to remove the prejudice against a military government by putting it out of sight; and proposed a scheme of civil government, which he assured them should be temporary, but which while it existed must be recognized. The laws of California, not inconsistent with the laws, constitution, and treaties of the United States, he declared to be in force until changed by competent authority, which did not exist in a provisional legislature. The situation of California was . . . nearly identical with that of Louisiana, whose laws were recognized as valid until constitutionally repealed. He proposed to put in vigorous operation the existing laws as designed by the central government, but to give an

American character to the administration by making the officers of the law elective instead of appointive; and at the same time proposed a convention of delegates from every part of the territory to form a state constitution or territorial organization, to be ratified by the people and submitted to Congress for approval . . . The first election was ordered for August 1st, when also delegates to the convention were to be elected. The officers would serve until January 1, 1850. The convention would meet September 1st. A regular annual election would be held in November, to choose members of the territorial assembly, and to fill the offices temporarily supplied by the election of August 1st . . ."

Despite opposition from some quarters, Riley's plan was carried through, and between September 3 and October 13, 1849, a state constitution was drawn up. The first election was held on November 13, and on December 15 the first legislature met.⁷¹

In an unorganized California the proposal by Wilson and the Mormons might have found interested ears. In a California already organized as a state, the proposal was at once dismissed as presumptuous and impossible. In February, 1850, Governor Peter H. Burnett in a message to the legislature of California one by one condemned all the arguments of the proposal. "With regard to the slavery question, he said that the people of California had settled that for themselves, and if the people of Deseret had not, it was their fault or misfortune. He said that the two communities were too far apart to be combined even temporarily, and that Texas and Maine might as well have been made one state as Deseret and California. The Legislature, after hearing the Memorial and the Governor's message, refused to receive the former. The Delegation consequently accomplished nothing."⁷² The Californians appear also to have been affronted by the Mormon attempt to secure to Deseret the San Diego region, although the Mormons were quite willing to leave this matter to the vote of the inhabitants.

Apart from the several reasons advanced in behalf of the proposal, a forceful consideration for the Mormons must have been their lack of sufficient population to meet the minimum number which had been established by tradition as requisite for statehood. The Mormons were conscious of this deficiency and at various times spoke with some bitterness on the subject, contrasting their own small but more stable population with the larger but, in Mormon eyes, highly transient California population. It would have been to their advantage at this time, to utilize the weight of the California populace for the purposes of Deseret. Immigration to Deseret was so large, and expected to increase in such proportion,

⁷¹Hubert Bancroft, *History of California*, (San Francisco, 1888, 7 Vols.), Vol. 6, pp. 275-307.

⁷²"Deseret Asks Admittance to California." *The Deseret News*, July 6, 1850, reprinting from the *Missouri Republican*, April 23, 1850. Bancroft cites as a primary source the *Journal of the California Legislature*, 1850, pp. 756-770.

that objections on the score of population were held immaterial, yet these objections annoyingly had to be met.

The activities of and the ordinances passed by the General Assembly of the State of Deseret will now be considered. The ordinances are of special interest and merit particular examination.

It appears that the first true legislative session began in December, 1849. According to the constitution, the first Monday in December was to be the day of annual convening, unless especially summoned by the governor, but there were so many informalities in connection with the activities of the General Assembly that this provision may have been ignored. The original volume, *Laws and Ordinances of the State of Deseret*, presents as its first act the ordinance regulating elections, with November 12, 1849, as date of passage and November 20, 1849, as date of approval. A careful checking of the sources, however, indicates that this ordinance actually was passed on February 12, 1850.⁷³

According to the constitution, the first session was to be held on Monday, December 3. Bullock's notes concerning the General Assembly begin on Saturday, December 1, continuing several days as follows: (December 1) "The Senate and House of Representatives met in President Heber C. Kimball's schoolroom." (December 3) "The Senate and House of Representatives met in Heber C. Kimball's schoolroom, and organized." (December 4) "Thomas Bullock wrote out orders to the marshal to summon senators to the Senate chamber and representatives to the Representative Hall." (December 8) "The Senate and House of Representatives met at the temporary state house at 10 a. m. and continued in session all day."⁷⁴

It is possible that the first ordinance issuing from the General Assembly was passed on December 8, 1849, the only law passed in 1849 by the legislature.⁷⁵ This was an act regulating the militia.

⁷³Aside from the date of the ordinance, there is no record to indicate a session of the General Assembly prior to December. Thomas Bullock's notes certainly describe a legislature in process of elementary organization, not a legislature already efficiently functioning; and it is incredible that Bullock would not have made some kind of a notation on an earlier legislative session. Further proofs are incontrovertible. On January 14, Bullock recorded, "Six sections of the Election Law was revised and recommended to the committee." And on February 12 he wrote that the General Assembly "... passed the election law." There is no record of any other election law. The act creating Davis County, October 5, 1850, refers to the ordinance of "November 12," but the Ordinances of 1849-50 had by then been printed and were before the legislature, so that this corroboration is worth little.

In connection with the election law itself, it might be observed that the August date for elections was a survival from political customs in the Midwest.

⁷⁴L. D. S. Journal History, quoting Thomas Bullock for these dates.

⁷⁵There is reason also to doubt that this act was passed on the declared date. The General Assembly was in session "all day" on December 8, according to Thomas Bullock, but it appears that the governor's message was not read until after January 7, 1850, and the act of March 2, 1850, providing for an armory, speaks of an "ordinance regulating the Militia passed February 27 ult." It does not appear that reference can be made to any ordinance but that dated December 8.

A more official status was thus given the militia which had been organized early in 1849.⁷⁹

The General Assembly seems to have resumed sessions on January 8, 1850. It is recorded that on January 7 Willard Richards wrote the governor's message, but this message, unfortunately seems not to have survived. On the 9th⁷⁷ the legislature approved a bill providing for the organization of the judiciary, which had been drawn up on January 5 by G. A. Smith, E. T. Benson, Daniel Spencer, Daniel H. Wells, Willard Snow, William Crosby, and Thomas Bullock.⁷⁸ In addition to elaborating upon the constitutional provisions concerning the Supreme Court and the judiciary in general, the ordinance empowered the governor to appoint a "state's marshal", provided for an attorney general to be elected by the joint vote of both houses of the General Assembly, and, especially, provided for county officers. No counties as yet existed, but the machinery for organization of counties here was set up, and the first counties of Deseret were created before the end of the month. This ordinance presents interesting and unusual features inasmuch as by section 4 the supreme court was given not only appellate jurisdiction but also original jurisdiction over civil cases, where the sum in dispute was in excess of \$1,000. In effect the supreme court was thus made a district court as well. Section

⁷⁹The Nauvoo Legion was a militia body chartered in 1840, dissolved following the repeal of the Nauvoo city charter in 1845. The Utah Nauvoo Legion dates from March 3, 1849. On that date, at a council meeting, it was voted that "a committee of three be appointed to organize all the male inhabitants of the valley of the G. S. L. who are able bodied men over 14 and under 75 years of age, into different companies, the whole to form an entire military organization of the people, under the name of the Nauvoo Legion," Amasa M. Lyman, Charles C. Rich, and Daniel H. Wells being appointed by Brigham Young for the task. Some progress evidently was made, since on March 16 Brigham Young "went to the Fort to attend to the organization of the Nauvoo Legion," but perhaps nothing direct was accomplished, for on March 31 the council instructed George D. Grant "to raise a company of fifty mounted men, to preserve the city and vicinity from Indian depredations." But on April 28, "the council met at the stand to organize the Nauvoo Legion. The committee called on the organizing captains to call out their men, when each company was marched to different parts of the field to organize and elect their captains, lieutenants, sergeants, etc. They afterwards met in a body at the stand. When the legion by unanimous vote elected the following officers: Daniel H. Wells, to be major general; Jedediah M. Grant brigadier general of the 1st Cohort, Horace S. Eldredge brigadier general of the 2nd Cohort, John S. Fullmer Colonel of 1st Cohort, John Scott Colonel of 2nd Cohort, Willard Snow major of the 1st Battalion of 1st Cohort, Ira Eldredge Major of 2nd Battalion of 1st Cohort, Andrew Lytle major of 1st battalion 2nd Cohort, Henry Harriman major of 2nd battalion of 2nd Cohort; Edward P. Duzette, major of military music." Final organization of the Legion prior to recognition by the General Assembly was accomplished on May 26, 1849, when the committee on military affairs reported having organized the Legion into an unspecified number of men, divided into two cohorts, with four regiments to the cohort, two battalions to the regiment, and five companies to the battalion, the whole commanded by a major general. The first cohort was composed of mounted men, the second of footmen. Eleven companies, six mounted and five afoot, had been organized into four battalions, comprising two regiments. The six horse companies constituted the first regiment of the first cohort. The first company, led by Captain George D. Grant, was named as a company of life guards, to protect the city and vicinity from Indian depredations. The other regiment consisted of two companies of artillery and three of infantry, including one company of "Silver Greys," men over fifty years of age, and one called the Juvenile Rifle Company, men under eighteen years of age. These latter two companies were organized by ignoring the constitutional provision that the militia was to be composed of men "between the ages of 18 and 45 years." A complete list of the minor officers announced on May 26 is bound with *Ordinances of the State of Deseret* in the church library and copied in the *Journal History* under that date. For a contemporaneous viewpoint on the first organization of the Legion, see "Extracts from the Journal of John Steele," in *Utah Historical Quarterly*, January, 1933, p. 23. It should be observed that the Ordinance of the General Assembly did not alter the general organization of the Nauvoo Legion, merely establishing regulations concerning it. The limitations on age liability had little point; the older men voluntarily continued their organization though it is not clear whether the Juvenile Rifle Company also maintained its status.

22, like sections 2 and 3 of the ordinance "in relation to county courts" passed a year later, gave the county court civil and criminal jurisdiction, as well as administrative duties, as a governing body of the county. Such a fusion of judicial functions with executive and legislative functions is to be marked, for the county governing body is technically an arm of the legislature acting under delegated authority, and is not an arm of the judicial system.⁷⁷

Other ordinances passed prior to the end of January may be considered in a group. The ordinance "concerning revenue" of January 10 was an important supplement to the act concerning the judiciary, for without powers of taxation and collection no county functions could have progressed far. Welfare provisions in Section 6, declare that the assessor and collector shall "in no case distress the widow, and the fatherless, nor oppress the honest poor." The ordinance of January 14, authorizing a bounty on wolves, takes on more meaning when it is remembered that, during the winter of 1848-1849, a hunting campaign had been organized for slaughtering vermin, and that oftentimes during the winter of 1849-1850 while the general assembly was in session, the howling of "wolves" made the night "hideous" in Great Salt Lake City.⁸⁰ On the same day the two houses passed regulations for attendance. The ordinance of January 15, authorizing construction of a dam across the Jordan River, was passed in response to a recommendation of Brigham Young on January 13, "at a public meeting held in the Bowery of G. S. L. City."⁸¹ An important feature of this act was the creation of a Committee of Public Works. The similar ordinance of January 15, in connection with other streams, illustrates the constant need of the settlers for more water.

Still a third ordinance on this date is significant in its bearing upon the necessity for the organization of counties. Settlements in Utah now extended all the way from Ogden on the north to Manti on the south, as well as west to Tooele Valley, and adequate roads were becoming imperative. Provision being made for state and county commissioners of roads,⁸² the designation of roads soon

⁷⁷Legislation is here considered as it was taken up by the General Assembly, but it should be remembered that the acts did not become law until approved by the governor, which frequently was at a later date. See the dates of approval attached to the Ordinances.

⁷⁸L. D. S. Journal History, January 5, 1850.

⁷⁹The fusion of functions is paralleled today in the development of the so-called bureaus, boards, and commissions—administrative tribunals—of the federal and state governments.

⁸⁰It may be observed that these "wolves" were not wolves at all but coyotes. Coming from the East, the Mormons had no distinctive name for a new species of animal.

⁸¹The Jordan River site was examined April 30. "The Committee appointed by the Legislature to build said dam subsequently decided that the sum appropriated was insufficient." (L. D. S. Journal History, April 30, 1850).

⁸²From Thomas Bullock's notes, quoted in the Journal History for January 15, 1850, it is seen that Ira Eldredge was appointed commissioner of state roads, and Daniel H. Wells, William I. Appleby, and John S. Fullmer were appointed a committee on roads. It appears that an additional ordinance of this date has been lost, since Bullock says, "The Senate and House of Representatives met and granted the petition of William Crosby and three others for the control of a canyon south of Big Cottonwood." If reference was to Little Cottonwood Canyon, cf. the Ordinance of January 7, 1851, granting this canyon to Benjamin L. Clapp and Charles Drown.

followed, and thirteen days later the first state roads were created, although at this time extending no farther south than Provo. The religious lodestone of the settlers' lives is sufficiently indicated by the provision that the roads should pass through the temple block in Great Salt Lake City. But the principal business transacted on January 28 was the creation of the six original counties of Deseret. Tooele (Tuilla) County had been settled barely in time to receive consideration by the legislature. Little Salt Lake County (later in the year to become Iron) as yet had no settlers; Parley P. Pratt's exploring company had barely returned from the south. The special precinct, Bridger's Precinct, was designed to cover the Fort Bridger territory, and the fords along the Green River. It should be noted how strictly functional these counties were, being in each case confined to valleys in which settlements already or soon were to be established. Contiguous country was ignored; not until after the legislature became representative of the Territory of Utah in the autumn of 1851 were the huge early counties of Utah described in their grotesque proportions.

Following the session of January 28, none seems to have been held until February 12. There is no record of any action on this date in the *Ordinances of the State of Deseret*, but Thomas Bullock recorded, "The General Assembly met in the Legislative Hall at 10 a. m., granted the petition for Bear and Green Rivers and passed the election law."⁸³ Reference has already been made to this "election law".

The legislature was in session again on the 19th, 26th, and 27th of February, but not until the 28th, apparently, was another act passed. On the latter date the University of the State of Deseret was incorporated, the first university west of the Missouri River. There was at this time no school system in Deseret, so that the provision by which the chancellor and board of regents were empowered to establish branches throughout the state has some significance.⁸⁴ A curious feature of the act is that by section

⁸³L. D. S. Journal History, February 12, 1850. Bullock has reference to ferry grants. Evidently Bear River was granted to William Empey, though others may have been associated with him. (The Journal of Hulda Cecilia Thurston Smith, quoted in Andrew Jensen, History of Box Elder Stake, MS., mentions the Empey grant in affirming that not Empey but Thomas Jefferson Thurston, who ferried emigrants over the river in 1848 and 1849 in "The Mud Hen," [a skiff in which the first Mormon exploration of Great Salt Lake was made in April, 1848] was the first to establish a ferry on that river.) It is not clear to whom Green River was granted. When the first legislature of the Territory of Utah met in 1851-52, Bear River was granted to Joseph Young, John Young, David Fullmer, and William Empey (*Laws of Utah*, 1852, pp. 167-169) and Green River to Thomas Moor (*ibid.*, pp. 166, 167). The manner in which the Deseret legislature arrogated to itself the right to dispose of Green River is a significant comment on group psychology; "mountain men" had established ferries on Green River before this time but were no part of the larger Mormon group, and the Mormons, themselves essentially squatters, calmly ignored the squatters' rights of the trappers.

⁸⁴Establishment of a university at so early a date shows the Nauvoo influence, since a university very early had been chartered for that city, said to be the first municipal university in the United States. The University of the State of Deseret had only a nominal existence until 1869. (For details see Bancroft's *History of Utah*, pp. 709-715.) The name was changed in 1892 from University of Deseret to University of Utah. The curious new language or "Deseret alphabet", which Utah leaders attempted to establish in Utah between 1853 and 1877, issued from the board of regents of the University of Deseret. A copy of a circular, an initial appeal for funds made on April 17, 1850, is bound with the volume, *Constitution of the State of Deseret*.

4 the chancellor and board of regents were authorized "to send agents abroad". Worthy of note also is section 13, which declared it the duty of the university officials to establish, as soon as financially practicable, "a free school Institution for the benefit of orphans, and other indigent worthy persons."

On March 1 and 2 the legislature apparently concluded the session of 1849-1850, on the latter date passing four ordinances. By creating the offices of county recorder and surveyor general, a more thorough governmental organization was made possible. It is interesting that the latter act provided that all new surveys should correspond with the original surveys of Great Salt Lake City, for when in August, 1855, federal surveys were begun in Utah by Surveyor-general David H. Burr, the Salt Lake meridian was adopted for a base, and the stone post marking the point of commencement of the surveys still stands at the southeast corner of the Temple block wall in Salt Lake City. The third ordinance, providing for an armory, supplemented the ordinance regulating the militia. The final ordinance revives a familiar theme, for the High Council earlier had legislated against the sale of arms, ammunition, and alcohol to the Indians.⁸⁵

No sources survive to indicate whether the general assembly remained in session a few days longer; both the L. D. S. archives and the *Ordinances* are silent. It is entirely probable that the 1849-1850 session closed on March 2. According to constitutional provisions, there would have been no further session until the following December, barring convocation by the governor, but a series of sessions was held through the summer and autumn. There is no indication whether the general assembly was called into session by Brigham Young. But these sessions are important, doubly so because the acts passed by the legislature were never printed with the other *Ordinances of the State of Deseret*.

On July 4, at 2 p. m., as recorded by the newly established *Deseret News*,⁸⁶ the legislature reconvened. "The General Assembly met in the Bowery at 2 p. m. when the Nauvoo Legion was marched in, under the command of their respective Officers. After all were seated that could be admitted under the roof, an Escort waited upon the governor to request his attendance in the assembly. Previous to his arrival, Gen. Wells proposed three cheers for the Governor, Lieut. Gov. and State of Deseret, which was responded to as the voice of one man.

"The Governor having arrived, ascended the Stand and made a very energetic speech, which we have not room for in this paper.

"The people were blest by the Lieut. Gov. and dismissed.

⁸⁵This ordinance appears wrongly dated in the *Ordinances*, since the Journal History for March 2, 1850, records that Young approved this act with the other three of March 2 on that date. March 29 is probably a misprint for March 2.

⁸⁶*The Deseret News*, July 6, 1850. Publication of the *News* was begun by Willard Richards on June 15, 1850.

"The rolls were called, a majority present; when the Senate and House went into joint session . . ."

The first business transacted was economic, but apparently did not require formal ordinances. "Andrew L. Lamareaux [Lamoreaux] James Ferguson, and Albert P. Rockwood were appointed Public Auctioneers", George A. Smith and John L. Smith were granted "the privilege of erecting a saw-mill in a Canyon on the west side of the Valley, fronting the east"; "on motion of Willard Snow, the sum of \$2,000 was appropriated out of the Public Treasury to repair the road to the Black Rock, on the south side of the Great Salt Lake, and also to repair the bridge over the River Jordan", Ezra T. Benson being appointed a committee "to see the above work done in a proper manner, and draw on the Treasury for the money appropriated"; and "on motion of Hosea Stout, to Samuel Thompson was granted the privilege of the timber in the Canyon south of said Thompson's mill on Mill Creek; he agreeing to make the road, and bring the lumber into market as speedily as possible."

After John Scott, sergeant-at-arms for the Senate, had been dismissed from office for non-attendance, and replaced by James "Craigan", [Cragun] the Assembly read three times and then passed the "Ordinance Concerning Revenue" which is incorporated into the *Ordinances*. This ordinance was supplementary to that passed on January 10, 1850, and is important not only because it revived the old tax on alcohol established by the High Council, but also because it specifically exempted from taxation certain articles and products which it was to the interest of the State to have produced, not imported. Following passage of this act, the Assembly "adjourned to the last Saturday in August, to meet in the Legislative hall at 10 a. m."⁸⁷

It does not appear that the legislature met again until September 11, regardless of the August 31 date which had been set. On the former date the Assembly "met in joint session, on call of the Governor, in the Bowery; a majority being present, the Assembly was opened with prayer by Senator Cahoon." A variety of small business was transacted. A petition from D. B. Huntington that he be licensed to trade with the Indians in Sanpete Valley was tabled; it is not clear whether subsequently the petition was granted. A bill from Thomas Tanner, amounting to \$93, "for repairing guns in the Arsenal, &c.," was allowed. A petition from "James A. Little & co., for right to run a line of stages from Ogden City, through Great Salt Lake City to San Pete: with branch lines to Tooele Valley, & c., for five years" was referred to a Select Committee, comprising D. H. Wells, G. A. Smith, and E.

⁸⁷The *News* records that "Senator Cornelius P. Lott died this morning [July 6], at 6½ o'clock, aged 52 years." The vacancy was not filled until December 5, when Governor Young appointed Wilford Woodruff and Charles C. Rich to vacancies in the Senate, the second vacancy resulting from the death on September 23, 1850, of Newel K. Whitney.

T. Benson." This petition was acted upon in December, as will be seen. The important business of the day was then introduced, Daniel H. Wells presenting "a bill for an ordinance to incorporate the Perpetual Emigrating Poor Fund Company, which was read and accepted, and referred to a Select Committee of five, namely: D. H. Wells, G. A. Smith, P. P. Pratt, W. Snow, and E. T. Benson." Action was deferred until the following Saturday, September 14, business for the day being closed following the adoption by the Assembly of a series of resolutions to Dr. J. M. Bernhisel and A. W. Babbitt, instructing them to press the claims of Deseret to be admitted as a State into the Union.⁸⁸

The members of the General Assembly could not know, of course, that the fate of Deseret was already sealed in Washington, and that two days previous the Territory of Utah had legally replaced the Provisional State of Deseret. That news would not reach Deseret for another month, and full details not until the following winter; meanwhile the General Assembly was to transact some of its most important business. The letter of instructions to Bernhisel and Babbitt will be considered in connection with the work of these men.

On September 14 the Assembly met in the Bowery at 10 a. m. The report of the committee on the "Perpetual Emigrating Fund for the Poor" was at once taken up, and the bill was "read, discussed, amended, and passed."⁸⁹ With its preamble, this act is incorporated into the *Ordinances*, and merits close attention because it played an extraordinary part in Utah's growth. The question of removing the church membership westward had occupied the attention of the authorities even before the migration to Utah began, and the establishment of settlements in the Utah region, with the many sacrifices of those who stayed behind to help their fellows go to Utah, had placed a particular responsibility upon the church. Official action was initiated on September 9, 1849, when Brigham Young presented to the congregation in Great Salt Lake City "the subject of a Perpetual Fund to gather the poor." It was voted that such a fund be instituted, and officers were appointed to collect donations and aid in the immigration.⁹⁰ It has been noted that prior to the effective functioning of the State of

⁸⁸*The Deseret News*, September 14, 1850. The text of the resolutions is as follows:

"1. Resolved, that our agent, Dr. J. M. Bernhisel, and our Delegate, Almon W. Babbitt [Babbitt] Esq., now in Washington, D. C., be instructed to withdraw all petitions, Memorials, and Applications to Congress for a Territorial Government for Deseret.

"2. Resolved, that they also be instructed to use all proper means to procure an early admission of this State, under our Constitution, into the Union.

"3. Resolved, that it is far preferable for us to remain as we are, in relation to Governmental affairs, until Congress shall see proper to admit us as a state.

"4. Resolved, that we appoint a Committee of Three, to write a letter of instructions to our Agent and Delegate aforesaid, expressive of our views and feelings in relation to the course pursued toward us, pertaining to our organization of Government, boundaries, &c.

"Whereupon, Daniel H. Wells, Parley P. Pratt, and Orson Spencer, were appointed said Committee.

"Heber C. Kimball, Pres't.
Attest, Thos. Bullock, Sec'ry."

⁸⁹*The Deseret News*, September 21, 1850.

⁹⁰L. D. S. Journal History, September 9, 1849, quoting Thomas Bullock's notes, 1849, pp. 7-9.

Deseret the council in Great Salt Lake City provided that livestock was to be sold for the benefit of the fund after one month's impounding in the Estray Pound. Now, through incorporation, the legislature gave special aid to the Perpetual Emigrating plan. The text of the ordinance is self-illuminatory, but the last provision, by which Stansbury's and Antelope Islands in Great Salt Lake were reserved as herd grounds for the exclusive use of the company, is important as marking the first formal disposition of these islands by the Mormon settlers.⁸¹ The company itself was organized at a special conference of the church the day after the meeting of the Assembly, when Brigham Young was appointed president of the company. As his assistants Young selected Heber C. Kimball, Willard Richards, Newel K. Whitney, Orson Hyde, George A. Smith, Ezra T. Benson, Jedediah M. Grant, Daniel H. Wells, Willard Snow, Edward Hunter, Daniel Spencer, Thomas Bullock, John Brown, William Crosby, Amasa Lyman, Charles C. Rich, Lorenzo Young, and Parley P. Pratt. These selections were confirmed by the congregation. The Perpetual Emigrating Fund, which loaned immigrants money for traveling to Utah, was instrumental in bringing thousands of converts to Utah, and it was expressly singled out for attack when Congress in 1887 passed the savage Edmunds-Tucker Act, the company being dissolved and the legislature of the Territory of Utah prohibited from "creating, organizing, or in any manner recognizing any corporation or association having for its purpose the bringing of persons into Utah for any purpose whatsoever."

Passage of the act incorporating the Perpetual Emigrating Company did not close the September 14 session of the Assembly; first Daniel H. Wells moved "that the Supervisor of roads, be instructed to proceed forthwith to improve the streets and roads, by making ditches, turnpiking roads, and making good and sufficient bridges, aqueducts, & c., and that he be authorized to draw upon the treasury for means to defray the expenses thereof, and further that we recommend all aqueducts to be built and covered with stone in a good and substantial manner; and that he employ Mr. Gammel [James Gammell ?] with his improved ditching machine and scraper, to work under his direction upon the public works." This motion was carried, and the Assembly thereupon adjourned until the first Saturday in October.⁸²

On October 5 the Assembly again met at the Bowery in joint session at 10 a. m. A petition by J. M. Blair, A. Colton, and J. Moss for the right to use a new shingle machine was tabled. A

⁸¹Stansbury may have been first to use the island for grazing purposes; on April 20, 1850, he wrote, "The herd was . . . directed to be removed from Tuilla Valley to Antelope Island for the season." (Stansbury, *op. cit.*, p. 170.) Yet on April 5 he had noted that the herd was to be "placed under the charge of the herdsman licensed by the Mormon authorities to receive all the cattle which may be committed to his care, he giving bond and security for their safe return, and being held responsible for any loss that may occur." (*Ibid.*, p. 159.) Conceivably Mormon herdsmen until this time used the island as public domain.

⁸²*The Deseret News*, September 21, 1850.

petition from A. M. Harding to secure a right to use a shingle machine of his own invention was granted. The question of patent rights thus being raised, "E. T. Benson moved that some person be appointed to examine the laws regulating Patent rights, and report them at the next meeting." The motion was carried, and G. A. Smith was appointed such a committee. It does not appear, however, that any action ever resulted from these instructions, perhaps because Smith led the Iron County Mission south in December and did not return to the legislature. Further minor business then occupied the Assembly: "Mr. Gammell" was appointed supervisor of roads in place of Robert Pierce, resigned; the resignation of Isaac Higbee as one of the county judges of Utah County being accepted, Higbee was appointed by Governor Brigham Young clerk and recorder of Utah County, with Aaron Johnson, William Miller, and Joshua T. Willis being appointed county judges until the next election. These various appointments were sanctioned by the Assembly. Daniel H. Wells, then presented the most important business of the day, "A bill to authorize the organization of Davis County." After a triple reading, the bill was passed, and approved by Governor Young. This act creating Davis County is the last of the three extant ordinances of the State of Deseret omitted from previous compilations. A singular feature of this act is that the county was to be organized by the marshal of the state, "under the direction of the executive." Davis County would be alone among Utah counties in the manner of organization if these directions actually were carried out. The precise minutiae of organization, however, seem lost, although Tullidge uncovered some recollection by a Davis County pioneer concerning a government organized under the laws of Deseret.⁹³

Following passage of the Davis County act, George A. Smith moved that the second session of the General Assembly be thereupon terminated, and when the motion was carried, the Assembly disbanded until "the third session should commence," which by the terms of the constitution would be the first Monday in December, 1850.⁹⁴

On December 2, 1850, the General Assembly began its important third session. The Council House begun in Great Salt Lake City over a year before was now so far finished "as to admit of its use," this being the first meeting held in the building, which had been financed by tithing funds, and which was erected on the site of the Union Pacific building at Main and South Temple streets. "The Senate organized in the North East room, second story, Lieut. Gov. Heber C. Kimball, presiding. William Clayton was chosen to act as Secretary. Jedediah M. Grant as Speaker

⁹³Edward W. Tullidge, *Histories of Utah*, Vol. 2 (Salt Lake City, 1889, 372 pp.), p. 70.

⁹⁴L. D. S. Journal History, October 19, 1850. Davis County was named in honor of Daniel C. Davis, who had been a captain in the Mormon Battalion, and who had lived near Farmington; he had died about June 1, 1850 west of Fort Kearney while enroute east on church business.

of the House and Thomas Bullock, as Clerk." The Assembly met in joint session to hear the Governor's Message, which is incorporated verbatim into the *Ordinances*. The message requires only a little comment. The thrust against California was shrewdly directed, for the members of the California legislature had not been backward in their demands for remuneration for their services, and already California was having some difficulty with its finances. The remarks on the establishment of schools emphasize that the University of the State of Deseret actually constituted something like a state school system.

References to Indian difficulties are to the Fort Utah conflict between February 8 and February 19 and to the Shoshone affray near Ogden on September 15 and 16. In the former the militia clashed with a force of Utes in consequence of raids upon cattle made by the Utah Valley Indians in January, twenty-seven Indians and one white man being killed; in the latter the Indians were aroused by the unfortunate killing of Terikee, an inoffensive chief, an emigrant being slain in retaliation before the Indians fled north. Young's remarks on the desirability of inducing the Indians to settle down as quiet farmers and herders were to be a constant theme with him for many years. The railroad to Iron County was not to materialize for almost half a century.

That organization on December 2 was notably formal is attested by the rules and regulations drawn up for the governing of the houses of the General Assembly, and by the standing committees named for elections; judiciary; petitions; counties; roads, bridges, and public works; ways and means; military; claims; civil laws; ordinances; and criminal code. The details of this document are so interesting that it has been placed in Appendix A.⁹⁵

The General Assembly met for three days, between December 3 and 5, before adjourning to the first Monday in January, 1851. On the first day, December 3, a more thorough organization of Little Salt Lake County occupied the legislators. The Iron County Mission was now being prepared, and the settlers were to leave from Provo for the south on December 15, led by George A. Smith.⁹⁶

⁹⁵As an example of quiet activities of the legislature, it might be noted that *The Deseret News* of February 22, 1851, discusses a "recent" address by Willard Richards to the General Assembly on "constitutional law."

⁹⁶The journal of George A. Smith, written while he was leading the Iron County Mission south, affords some interesting light on legislation proposed to the General Assembly but never enacted. On December 18, 1850, at Fort Peteetneet (now Payson), he drew up "a petition to the General Assembly for an appropriation of \$500, for bridging of the Spanish Fork river and working a road across the slough; and another for a mill privilege on the Peteetneet Creek and the summit and for the control of the timber in the Loafer Canyon." Later in the day he "finished a communication to the Committee of Public Works, on the subject of a petition to the Legislature for the incorporation of the Deseret Railroad Company." On December 21 he "drew up a petition for the dividing of Utah County and forming a County in the south part of Utah valley under the name of Pleasant County." On January 18, 1851, while encamped on Center Creek, he dispatched four more petitions, "one for a state road from Peteetneet to the Iron Shines, one for an exploration to find a new route from Toohilly [Tooele] County to this place, via Sevier Lake, one for a railroad from the Gt. Salt Lake City to the Iron Springs, one from myself asking for the control of the timber and water in Center Creek Canyon for Mill purposes." The Iron County representative to the General Assembly was Jefferson Hunt, northbound from Southern

Brigham Young, writing on November 20 to John Bernhisel, had indicated the intention to rename the county: "The Little Salt Lake is a misnomer, it is nothing but a little saleratus pond, about half the size of the Hot Spring Lake in this valley. We have therefore altered the name of that county, and owing to its immense stores of iron ore, have named it Iron county: as soon as the settlement can raise enough to subsist upon, they will devote their energies to the manufacture of iron."⁹⁷ It is noteworthy that the Iron County boundaries, like those of Davis County in October, were more explicitly described than the majority of the county boundaries defined the previous January.

Two other acts were passed on December 3. Apparently they were not approved by Governor Young until January 9, 1851, and therefore, according to the constitution (Article 2, section 14) Young's approval was quite superfluous, for the acts had become law with the expiration of the ten day period on December 14; no one seems to have been troubled, however, by this informality. The first of these acts granted to George A. Smith control of the timber in the canyons of the Oquirrh Mountains on the west side of Salt Lake Valley, a logical supplement to the act of July 4 granting him sawmill privileges, and the second granted to Ezra T. Benson timber and mill sites in Tooele County.

As the Assembly on the following day granted Ezra T. Benson waters in Tooele County for mills and irrigating purposes, Benson was left in rather complete control of the economic resources of that county.⁹⁸ Also on December 4, the Assembly granted James Rawlins the right to build a toll road into Big Cottonwood canyon, and to supervise lumbering operations in that canyon; granted the petition of Brigham Young "for the privilege and control" of City Creek and Canyon for the nominal sum of \$500;⁹⁹ and incorporated a company headed by James A. Little for the purpose of establishing stage lines in the State of Deseret.¹⁰⁰

California with the news of Brigham Young's appointment as governor of the Territory of Utah, whom the southbound colonists met on January 14 at Summit Creek. It is extraordinary, but not in the least incompatible with Mormon ideas, that the colonists on January 17, with 117 votes cast should name Hunt their representative. (See typed copy of the journal, in possession of Utah Historical Records Survey, Salt Lake City, Utah.)

⁹⁷L. D. S. Journal History, November 20, 1850.

⁹⁸Benson, with Josiah Call, Anson Call, and Judson Tolman on November 24, 1849, had been granted timber and mill privileges in the Tooele region by the council in Great Salt Lake City. See Historical Records Survey, *Inventory of the County Archives of Utah, No. 23, Tooele County*, (Ogden, 1939, 259 pp.), pp. 7, 8 for a brief discussion of these developments. This discussion is, however, inaccurate in asserting that the grant had been made by the "provisional council of the State of Deseret." (See note 40.)

⁹⁹Observe in Young's petition the argument for the necessity of keeping the water pure; this consideration dictates practices of the modern Salt Lake City waterworks department, and City Creek is more closely supervised and restricted than any other canyon contiguous to Salt Lake City.

¹⁰⁰In connection with the grants of resources to particular individuals, which will be observed not only in the acts of the General Assembly of the State of Deseret but in those of the Legislature of the Territory of Utah until Congress in 1867 prohibited territorial legislatures from granting private charters, some comment is desirable. Mormon critics have seized upon these grants as evidence that the Mormon state was an oligarchic creation which operated to the advantage of a ruling clique, but George Q. Cannon, speaking before the House of Representatives in 1882, remarked on this point: "Acts of the Legislative Assembly of Utah Territory have been quoted to sustain the idea that they have really given title or sought to dispose of the public lands. At no time and under no circumstances was any action of this kind taken with a view to

The Jordan River, a frequent problem of the early authorities, again came under consideration in the final act in December, the state commissioner (of roads) being authorized to let a contract for the construction of a toll bridge over the stream.

On Thursday, January 9, Great Salt Lake City was incorporated. This act was in response to a petition "numerously signed by the citizens of the city, praying for the adoption of an accompanying bill, into 'An Ordinance to Incorporate Great Salt Lake City.'" The bill passed on third reading, and the legislature then adjourned until the 14th.¹⁰¹ According to the ordinance, date of approval was January 19, but this is doubtless a misprint for January 9, since the officers appointed by the Assembly on the 9th took oath of office on the 11th.¹⁰² This act of incorporation is said to make Salt Lake City the second oldest incorporated city west of the Missouri River, antedated only by San Francisco.

The true significance of this act of incorporation has not previously been realized. A comparison with the Nauvoo charter, passed by the Illinois legislature on December 18, 1840, will illuminate what has been said concerning the important formative influence of Nauvoo on the political institutions of Utah.

The charter for Great Salt Lake City is almost a verbatim copy of that for Nauvoo. Descriptions of territory necessarily are different, but otherwise the correspondence is virtually complete.¹⁰³

bestow the ownership or title upon any person who might occupy the land or to whom any grant might be given. But our canyon roads had to be made, and it required some action on the part of the Legislature to induce men to build costly roads into our mountains and to build bridges over our canyon streams. I have known canyon roads there costing over \$12,000 to be swept away in a single storm. Grants of this kind were given in the early days of the Territory for such purposes, and also for herd grounds and for other purposes, that local rights might be preserved. . . We lived in Utah Territory for twenty years before the land laws were extended over us; we had to do the best we could. . . " (*The Deseret Evening News*, April 27, 1882.)

The grants were usually, but not invariably, to ranking church officials, but it should be remembered that the ablest men tended not only to rise in the church to positions of authority but also to prosper more consistently in their business affairs, so that these men possessed the means to undertake enterprises of this kind. Not only state (or territorial) but county and city grants of this kind were made, sometimes to the disproportionate advantage of individuals. (See Feramorz Young Fox, *op. cit.*, for a discussion of these special grants.) However, it should be remembered that benefits also accrued to the people and that provision was sometimes made, as in the case of the timber grant to E. T. Benson, that citizens should not be prevented from taking out such materials as were required for their own use.

¹⁰¹*The Deseret News*, January 11, 1851.

¹⁰²*The Deseret News*, January 30, 1851. Officers appointed for Great Salt Lake City were Jedediah M. Grant, mayor; Nathaniel H. Felt, William Snow, Jesse P. Harmon, and Nathaniel V. Jones, aldermen; Vincent Shirliff, Benjamin L. Clapp, Zera Pulsipher, William G. Perkins, Lewis Robison, Harrison Burgess, Jeter Clinton, John L. Dunyan and Samuel W. Richards, councilors; Robert Campbell, recorder; and Elam Luddington, marshal. The city was divided on the same day into four municipal wards. (Great Salt Lake City Council Minute Book, Vol. A-B, p. 1.)

¹⁰³The first two sections of the Nauvoo charter are somewhat local to Nauvoo, but the following correspondences may thereafter be noted, the Nauvoo section number being placed in parenthesis: Sec. 2 (3); sec. 3 (4); sec. 4 (5); sec. 5 (6); sec. 6 (7); sec. 7 (8); sec. 8 (9); sec. 9 (10); sec. 10 (11); sec. 12 (corresponds to sec. 3 of the legislative powers of the city council of Springfield, Illinois, to which a reference was made from the Nauvoo charter; Springfield excerpts will be noted by a letter, "S"); sec. 12 (4S); sec. 13 (5S); sec. 14 (6 & 7S); sec. 15 (8S); sec. 16 (9 & 10S); sec. 17 (11-14S); sec. 18 (15 & 16S); sec. 19 (17S; also 12 Nauvoo); sec. 20 (18 & 19S); sec. 21 (20S); sec. 22 (21S); sec. 23 (22 & 23S); sec. 24 (24S); sec. 25 (25S); sec. 26 (26S); sec. 27 (27S); sec. 28 (28S); sec. 29 (29S); sec. 30 (30S); sec. 31 (31S); sec. 32 (33S); sec. 33 (35S); sec. 34 (sec. 13 of Nauvoo); all following excerpts are Nauvoo; sec. 35 (14N); sec. 36 (15N); sec. 37 (16N); sec. 38 (17N); sec. 39 (18N); sec. 40 (19N); sec. 41 (20N); sec. 42 (21N); sec. 43 (22N); sec. 44 (23N); sec. 45 (27N); sec. 46 (considerably modified from sec. 26N). Sections 47 and 48 were, of course, peculiar to the changed conditions. Compare, *Millennial Star*, Vol. 18, pp. 246-248; 261-263. It might also be pointed out here that the legislative body was doubtless called a "General Assembly" rather than a "Legislature" because the former was the Illinois name for that body.

The 24th and 25th sections of the Nauvoo charter, it might be observed, had already been incorporated into the law of Deseret, for the University of the City of Nauvoo had become the University of the State of Deseret, while the Nauvoo Legion had become the militia body for the State of Deseret. In view of the difficulties experienced in Nauvoo by reason of the extended jurisdiction of the municipal courts, it is of great interest to note that identical powers given to the Great Salt Lake City courts (secs. 37-39) never occasioned any trouble or even any comment. The judicial jurisdiction of the mayor's and aldermen's courts continued until voided by Congress with the Poland Act in 1874; the only modification until that time was that in 1865 the territorial legislature provided that appeals from the decisions of these courts might be taken to the probate court of Great Salt Lake County.

Another series of sessions was begun on the 14th. On the 15th Willard Richards was given toll-road privileges in connection with North Cottonwood Canyon, contracts in connection with a grant which in 1849 had given him control of the canyon being repealed.¹⁰⁴ On the 16th, after granting ferry rights on Bear River to Joseph and John Young, and toll bridge rights over Weber River to Albert P. Rockwood and P. Pendleton,¹⁰⁵ acts which do not appear in the *Ordinances*, the Assembly completed two major steps in the formation of an effective local government for Utah by passing an ordinance establishing probate courts and by passing a criminal code.

The criminal code was no new idea; it seems to have been in process of development for over a year. Thus, on January 23, 1850, it is recorded that Thomas Bullock read to Brigham Young "a criminal code written by George A. Smith"; and again on February 18, 1850, it is recorded that "the bill for punishing crimes, etc., was printed by Brigham H. Young, in Great Salt Lake City."¹⁰⁶ In connection with the criminal code, it is interesting that no definite time or amounts was specified for punishment of most crimes, the judges being left with considerable discretion. An exception is to be noted, however, in the case of adultery, where the extraordinarily heavy penalty of imprisonment at hard labor up to five years, and a fine not to exceed \$5,000, was established. The penalty for adultery in Utah in 1940 is imprisonment for not to exceed three years. Despite all the nonsense that has been written about polygamy, or perhaps partially because of it, the Mormons have had pronounced views on the desirability of maintaining the purity of the sexual relations; the primary argument for polygamy, indeed, often was that observance of the doctrine would extirpate much immorality in society. However, it should be remembered that the doctrine of polygamy had not

¹⁰⁴No other mention of this 1849 grant has been found.

¹⁰⁵L. D. S. Journal History, January 16, 1851. Cf. note 83.

¹⁰⁶L. D. S. Journal History for these dates.

yet been openly espoused by the church; this announcement was not made until August 29, 1852. Another feature of the criminal laws should be observed, the fact that on conviction of murder a man or woman could be shot, hanged, or beheaded. The first two alternatives remain in Utah law, so that convicted murderers in Utah, contrary to the case in every other state, may be excuted by a firing squad upon request. The third alternative could hardly have survived. A final feature is that persons convicted of stealing or fraudulent practices were required to restore the property four-fold; here the earliest rulings of the High Council are clearly echoed.

The Assembly wound up a busy month on January 17, on that date apportioning the representation of the State of Deseret, a necessary concomitant of county organization which previously had escaped attention, and amplifying the laws concerning the militia. The creation of military districts was important in the development of the Nauvoo Legion. That Box Elder "county" is designated a military district is interesting in view of the fact that Box Elder County was not created until 1856; until that time the Box Elder region was a precinct of Weber County.

Having adjourned until the first Tuesday in February, the General Assembly of Deseret began its sessions again on February 4, the day after Brigham Young had taken oath of office as governor of the Territory of Utah, unofficial news of his appointment having arrived from southern California on January 27. Incorporation of the Church of Jesus Christ of Latter-day Saints was the main business which occupied the legislators. The provision that the church should keep a registry of marriages, births, and deaths free for the inspection of all members, and for their benefit, is highly significant, since such records were not required by the counties until 1888. Still another interesting provision is that by which the church was empowered "to solemnize marriage compatible with the revelations of Jesus Christ"; the concept of polygamy, not yet avowed by the church, seems here considered.

On the same date the Assembly made an important delegation of power, investing in county courts the right to control natural resources in the several counties. Recognition of the importance of livestock to the communities is signalized by the other ordinance of this date, in relation to herding.

February 5 and 6 again saw sessions of the General Assembly. On the 6th Ogden, Manti, Provo, and Parowan cities were incorporated. Parowan at this time was hardly in its first stages of settlement, and its settlers were calling it "Fort Louisa," in honor of Louisa Beeman, who had been the plural wife first of Joseph Smith, and then of Brigham Young, and who had died May 16, 1850. An amusing sidelight on the incorporation of these cities is afforded by Thomas Bullock, since he records that on January

13 "a letter was written to Isaac Clark to get up a petition to the Legislature to incorporate the City of Ogden." Initiative seemingly rested with the church or state authorities, not with the Ogden residents; but a respect for legal forms is here evidenced. The acts of incorporation are identical for all the cities except that for the cities incorporated in February no provision was made for the immediate selection of officers, section 47 of the Great Salt Lake City act being omitted.

Two more acts were passed on February 7. The law establishing and regulating stray pounds was an amplification of the law passed by the Great Salt Lake City Council on November 24, 1849, and provision was made for transferring of proceeds from stray sales to the Perpetual Emigrating Fund. This law remained in effect for many years, and subsequently became a subject of loud complaint among non-Mormon residents and travelers, who objected to funds being used for missionary enterprises when roads were in such execrable condition.¹⁰⁷ In fact if not technically, this law was indicative of the fusion of church and state. The second ordinance, "relating to Inclosures and Trespass" is important because it placed a duty upon the owners of land to maintain a lawful fence or else be liable to pay damages to an owner in common suffering damages for any encroachments by peaceable animals; an affirmative duty was thus placed on land owners in variance with common law, indicating the legislative intent to foster grazing and animal husbandry.

As far as can be determined, the legislature met only twice more in February, on the 10th and on the 24th. On the first date a public square in Great Salt Lake City was appropriated for the erection of a state house and state offices; and on the same day the manufacture and vending of "ardent spirits" was regulated, the governor being given some discretionary powers. A third ordinance of February 10, concerning vagrants, defines vagrants in altogether unusual ways in sections 1 and 7. In later years Brigham Young was to gather up crowds of such "loafers" as are described in section 7, and send them out to establish new colonies in Utah, asserting that if they could find no way profitably to employ their time, he could.

On February 10 the Assembly appears also to have passed a resolution which was approved on the 12th by the governor. This act was published as a "Resolution" in *Laws of Utah*, 1853. "Be it resolved by the General Assembly of the State of Deseret; That the Governor is hereby authorized and requested to procure a block of marble from the best specimens of stone that he shall be able to find in the State, for a contribution to the Washington Monument now in progress of erection in Washington City;

¹⁰⁷See James Bonwick, *The Mormons and the Silver Mines*, (London, 1872, 418 pp.), pp. 22-25. On the fusion of church and state see Stansbury, *op. cit.*, p. 131.

and also that he cause the same to be suitably sculptured, and forwarded to the Washington Monument Committee as soon as practicable, that any and all expense incurred by reason of the above resolution shall be defrayed out of the public treasury, and the Governor is hereby authorized to draw on the Treasurer for the same."¹⁰⁸

The final ordinance of the General Assembly of the State of Deseret was passed on February 24, 1851, approved the same day by Governor Young, and was designed "to suppress gaming." Apparently this ordinance was passed in a morning session. In the afternoon the Assembly passed the following resolutions:

"Be it resolved by the General Assembly of the State of Deseret that the sum of two thousand dollars be appropriated to encourage the manufacture of wool in Great Salt Lake County.

"Resolved that Ira Eldredge have the superintendence of the investment of the aforesaid appropriation.

"Resolved that the aforesaid sum shall be refunded with six per cent per annum with interest thereon within five years from this date.

"Be it further resolved that we hereby pledge ourselves to use for ourselves and in our families, only Domestic manufactured clothing as soon as a sufficient quantity of it can be furnished to supply the market."¹⁰⁹

On this note, significant as an expression of popular feeling in Deseret, the General Assembly adjourned to the fourth Saturday in March.¹¹⁰ When the Assembly met again, it was to dissolve forever.

Formal dissolution of the State of Deseret was initiated on March 26, 1851. Brigham Young addressed the following special message to the General Assembly:

"Gentlemen:—Whereas, the Congress of the United States passed an Act Sept. 9, 1850, and received the approval of the President to 'establish a Territorial Government for Utah,' and made appropriations for erecting public buildings for said Territory, & c.; the appointments under said law also having been made, official announcement of which has not as yet been received, but are shortly expected; sufficient intelligence, however, has been received to justify us in preparing for the adoption and organization of the new Government under said Act.

"I have therefore thought proper to suggest to you, previous to your final adjournment, the propriety of making such arrangements, as in wisdom you may consider necessary, in view of the

¹⁰⁸*Laws of Utah*, 1853, p. 97. From this circumstance doubtless came the name of Washington County, which was created by the first territorial legislature. This block, of oolitic limestone in default of good marble, was sent east in 1853 and represents "Deseret" today in the inner wall of the monument. For a description, see *The Deseret News*, January 8, 1853.

¹⁰⁹*L. D. S. Journal History*, February 24, 1851. These resolutions were not published with the *Ordinances*. The idea was reaffirmed in 1852. (See *Laws of Utah*, 1852, pp. 205, 206.)

¹¹⁰*The Deseret News*, March 8, 1851.

aforesaid Act of Congress, that as little inconvenience as possible may arise in the change of governmental affairs, and in relation to the organization of the Territorial Government, for erecting public buildings for said Territory, &c.

"And now, upon the dissolving of this Legislature, permit me to add, the industry and unanimity which have ever characterized your efforts, and contributed so much to the pre-eminent success of this Government, will, in all future time, be a source of gratification to all; and whatever may be the career and destiny of the YOUNG but growing Republic, we can ever carry with us the proud satisfaction of having erected, established, and maintained a peaceful, quiet, yet energetic government, under the benign auspices of which, unparalleled prosperity has showered her blessings upon every interest.

"With the sentiments of the highest esteem and gratitude to the Giver of all good for His kind blessings, I remain,

"Respectfully yours,
Brigham Young,
Governor." m

On March 28, in joint session, the General Assembly of the State of Deseret met to dissolve, an act accomplished with the following resolutions:

"Whereas, in the winter and spring of A. D. 1849, the people of this Territory did form and establish a Provisional State Government, until the United States Congress should otherwise provide by law for the Government of this Territory; and

Whereas, it was under this authority and by virtue thereof, that this body have acted and legislated, for and in behalf of the people of said State, now Utah Territory; and

Whereas, the United States Congress has finally legislated in behalf of this Territory, by passing an Act for the organization of the Territory of Utah; making appropriations for public buildings; and extending the Constitution of the United States over said Territory; and

Whereas, previous to the first election under said law, the census has to be taken, and apportionments made, which will necessarily consume much time; and

Whereas, the public buildings for said Territory are very much needed, and the United States Congress having made an appropriation of twenty thousand dollars towards defraying the expense thereof;—and in order to facilitate the speedy erection of said public buildings for the use of the Territory, and further promote the mutual and easy organization of said Territorial Government:—

Therefore, be it resolved by the General Assembly of the State of Deseret,

^m*ibid.*, April 8, 1851.

1. That we cheerfully and cordially accept of the legislation of Congress in the Act to establish a Territorial Government for Utah.

2. That we welcome the Constitution of the United States—the legacy of our fathers—over this Territory.

3. That all officers under the Provisional State Government of Deseret, are hereby requested to furnish unto their successors in office every facility in their power, by returning and delivering unto them public documents, laws, ordinances, and dockets, that may or can be of any use or benefit to their said successors in office.

4. That Union Square, in Great Salt Lake City, be devoted for the use of public buildings of said Territory.

5. That Gov. B. Young be our agent to make drafts upon the treasury of the United States for the amount appropriated for said buildings, and to take such other measures as he shall deem proper for their immediate erection.

6. That we appoint an architect to draft designs, and a committee of One, to superintend the erection of said buildings.

7. That Truman O. Angel, of said city, be said architect; and Daniel H. Wells, of said city, the committee; and that they proceed immediately to the designing and erection of said buildings.

8. That, whereas, the State House in Great Salt Lake City having been originally designed for a "Council House", and erected by and at the expense of the 'Church of Jesus Christ of Latter-day Saints', for the purpose, as well as to accommodate the Provisional Government;—that we now do relinquish unto said Church the aforesaid building; tendering unto them our thanks for the free use thereof during the past session.

9. That we fix upon Saturday, the 5th day of April next, for the adjustment and final dissolving of the General Assembly of the State of Deseret.

H. C. Kimball,
President of the Senate.
J. M. Grant,
Speaker of the House.

T. Bullock, Clerk."¹¹²

With no further ceremony, the Provisional Government of the State of Deseret ceased to exist.

III. Deseret in Washington

On departing east on May 3, 1849, Dr. Bernhisel took with him a letter of introduction from the First Presidency to Stephen A. Douglas, now a senator, who had befriended the Mormons in Illinois. The letter remarked in part, "Dr. Bernhisel visits Wash-

¹¹²*Idem.*, Union Square, which was designated for the use of public buildings in the Territory is the block on which the West High School buildings now stand in Salt Lake City.

ington, as the duly accredited delegate of the citizens of the Great Salt Lake Valley, and is the bearer of their petition to Congress for a Territorial Government in the mountains, and any assistance or attention you shall render him will meet with a cheerful response in the hearts and acts of a grateful people, when opportunity shall offer.

"We have recently understood that Judge Douglass [sic] presented a petition or bill, for the Territory of Nebraska, east of the mountains, but in true Yankee dialect, we are emphatically the backwoodsmen of the age, and consequently have learned but little concerning the progress or prospect of the bill; but in event the boundaries of the two contemplated territories should come in collision, and your bill not yet passed, we solicit an interview with Dr. Bernhisel, when we have no doubt, you will arrive at an amicable adjustment, and will be enabled to rest upon a course that will enable each party to be useful to the other in the accomplishment of their objects."¹¹³

Bernhisel proceeded east, by a leisurely course, and on November 26, in company with Wilford Woodruff, interviewed Colonel Kane in Philadelphia. The politically wise Kane offered the Mormon representatives sage advice:

"You must not commit yourselves to any party, but keep a close mouth with all parties, and the most discreet and wise course must be pursued, in order to do anything at all. I will do what I can with the Free Soil party, my father and Mr. Dallas with the Democrats. It will be the most critical Congress ever held.

"I applied, according to the wish of President Young, for a Territorial government."¹¹⁴ I had my last sad and painful interview

¹¹³Letter of the First Presidency to Stephen A. Douglas, in L. D. S. Journal History, May 2, 1849. Observe that Bernhisel is introduced as representative of the "citizens of the Great Salt Lake Valley." Historians have overlooked the apparently deliberate suppression of news concerning formation of the State of Deseret. The general epistles issued by the church authorities during early 1849 make no mention of the constitutional convention, and not until the elaboration and organization of the State of Deseret in July, 1849, were these facts publicized, although the General Epistle of March 9, 1849, mentioned the pending election of March 12. The Mormon authorities may have feared the effect upon public opinion of news that they were organizing a provisional government.

¹¹⁴Since Polk left office on March 4, 1849, it becomes evident that an effort was made to secure a territorial government independent of and antedating local initiative in Deseret. It would seem that Kane's interview occurred in the winter of 1848-49, close to the end of Polk's term but early enough for Polk still to possess considerable influence. The immediate occasion for Colonel Kane's action was a letter from Brigham Young, dated February 9, 1848, "Should your time permit we wish you to draft a Petition for our territorial Government in the Great Basin. . ." [Original letter in possession of L. D. S. Church Historian's Office.]

The subject had first been brought up in a conversation near Council Bluffs on August 7, 1846: "Col. Kane said that Gov. [Lilburn W.] Boggs [of Missouri] had been working against the Mormons in Washington; and asked the brethren whether they should like a territorial government. Pres. Young replied that they should. . . . Two days later Brigham Young wrote a long letter to Polk on the subject, proposing that the territory be "bounded on the north by the British and south by the Mexican dominions, and east and west by the summits of the Rocky and Cascade mountains." (Journal History, August 7, 9, 1846.) It might also be noted that on May 2, 1849, Richards wrote Kane "informing him of the views and feelings of the people of the Valley in relation to their application to Congress for a Territorial form of government; authorizing him to extend, if consistent, the proposed northern boundary line of the territory to latitude 43 degrees north, and to modify the eastern line, and the lines extending to the Pacific coast, as might seem expedient or necessary; and also requesting him to cooperate with Dr. J. M. Bernhisel, in endeavoring to obtain the favorable action of Congress in the matter." (Journal History, May 2, 1849.) Reference here is to the memorial of April 30, 1849.

with President Polk, I found he did not feel disposed to favor your people, and he had his men of his own stamp picked out, to serve as governor and other officers, who would have oppressed you or injured you in any way to fill their own pockets. He would not appoint men from among yourselves, and I saw it absolutely necessary that you should have officers of your own people to govern you, or you were better without any government. I had to use my own discretion, and I withdrew the petition. I am fully decided upon that point—that you must have officers of yourselves, and not military politicians strutting around in your midst and usurping authority over you. It will not do for you to take the slavery question, or anti-slavery, or any other side, but be neutral.

“Atchison of Missouri, with the Mormon opposing party, will still be your enemies, Thomas Benton has been an inveterate enemy, and still may be. And all the parties, with the whole of Congress, are a mass of corruption and abomination. They are all governed by party management, without any regard to principle, and if we do anything upon this subject, we shall have to enter into wise management, and I hate to do it. Parties are all breaking up and new ones are forming, and no man can tell what a day will bring forth. Thomas Benton was at the head of your being driven from Winter Quarters, in the Indian country, and Polk favored it, and I could not turn them from their purpose. I told Mr. Polk we should not present any petition while he dictated matters. Benton is still your enemy at heart. Douglas is going down with a certain class connected with him. The time was when he could have done your people much good by merely bearing his testimony of your good character while he was judge in Illinois, and he would not do it.”¹¹⁵

“You are better without any government from the hands of Congress than with a Territorial government. The political intrigues of government officers will be against you. You can govern yourselves better than they can govern you. I would prefer to see you withdraw the bill, rather than to have a Territorial government, for if you are defeated in the State government, you call fall back upon it again at another session, if you have not a Territorial government; but if you have, you cannot apply for a State government for a number of years. I insist upon it, you do not want corrupt political men from Washington strutting around you, with military epaulettes and dress, who will speculate out of you all they can. They will also control the Indian Agency and Land Agency, and will conflict with your calculations in a great measure. You do not want two governments. You have a government now, which is firm and powerful, and you are under no obligations to the United States. You owe them nothing but kicks, cuffs, and the treatment of wicked dogs, for that is the only

¹¹⁵Notwithstanding these strictures, Douglas was helpful in the ensuing session of Congress.

treatment you have received from their hands, since you have been a people.

"Brigham Young should be your governor. His head is not filled with law books and lawyers' tactics, but he has power to see through men and things. And all counsellors, Elders, and agents abroad should be made to know their place, sustain the head man, and work for the general good in all things, and not act from selfish motives, or to get some petty office or a little salary.

"If you do make up your minds to ask for a territory, you should use every exertion in your power to get the assurance of the President that your choice will be granted you in a governor and other officers, as Brigham Young for governor, etc. But if you can not get this assurance, do not ask for a territorial government at all, but wait the result.

"If you have a State government, men may come along and say, 'I am judge, I am colonel, I am governor,' you can whistle and ask no odds of them. But while you have a territorial government, you cannot do it. And then there are always so many intrigues, to make political parties among you. The first thing you know, a strong political party is rising up in your midst, selfish, and against your interest."¹¹⁶

These remarks by Colonel Kane seem to have influenced markedly the Mormon thinking on the problem of getting a congressionally-sanctioned government. Their effect, as Roberts says, is to be found in the letter of instructions written Babbitt and Bernhisel the following September by the committee of the General Assembly. Bernhisel may or may not have known by this time that Babbitt had come east with a petition for a state government; probably he was aware of the fact, inasmuch as Babbitt had reached Kanesville in September.

The active role in the Washington negotiations was taken by Dr. Bernhisel, not by Babbitt, although Babbitt, as elected delegate from the provisional state, had a more official status than Bernhisel, who had simply brought a memorial which was not presented. Babbitt seems to have been more a detriment than an aid to the Mormon cause. He had been selected because of his extensive political experience, but the labors of Dr. Bernhisel indicate that personal integrity was a more valuable quality in a delegate than experience. Colonel Kane, writing Brigham Young from Philadelphia on September 24, 1850, remarked that the Mormon interests had suffered by the improper conduct of Babbitt, and advised against returning Babbitt as delegate to Congress. Kane declared that the qualifications of a delegate should include correct deportment, discretion, and a good reputation, especially if he were representative of the Mormons, who must be judged

¹¹⁶Wilford Woodruff's Journal, entry for November 26, 1849, in L. D. S. Journal History for this date. These remarks are Woodruff's synopsis.

by their agents, and that a delegate could do much harm if he were either ashamed of his religion or a shame to it. Additionally, it was desirable that the delegate pursue in politics "a wise neutrality", or that in all events, if a party man, that he should be "a trusty supporter of his single party and nice in his choice of the associates that belong to it." Babbitt's conduct, Kane continued, had been such as to lose him the confidence of both parties. "The Democrats joined with the Whigs in the personal disrespect which was shown him in the House." Kane further remarked that Babbitt was the first Mormon agent he had ever found faithless or inadequate, and that he desired it recorded to the Mormon honor "that throughout my entire course of action in your behalf, I have ever only needed to call for the assistance of the authorized members of your Church, to be sure of engaging assistants conscientiously prompt, active and careful. Of the gentleman, for instance, you fortunately sent to Washington before Mr. Babbitt, I have had ample opportunity to prove his worth. Without any previous preparation for political life, and aided only by his own modest good sense and careful purpose to do right, Dr. Bernhisel has shown himself the equal of every occasion that has offered, while the uniformly upright deportment and gentlemanly demeanor that earned for him his personal influence, were an encomium upon the principles he on no occasion hesitated to avow."¹¹⁷

These criticisms of Babbitt were confirmed on July 19, 1851, when Dr. Bernhisel, returned from the east, corroborated Kane's remarks. "The Senators in Congress could not comprehend how we [the people in Great Salt Lake Valley] came to elect such an immoral man as Babbitt for our delegate."¹¹⁸

Dr. Bernhisel reached Washington November 30, and put up at the National Hotel, "the centre of politics, fashion and folly," bearing letters of introduction to Washington dignitaries which had been given him by friends in New York. "I met Gen. [Lewis] Cass, at his invitation, in the Senate Chamber on the first day of the session, and was introduced to the Vice President, Millard Fillmore, Mr. John C. Calhoun and a member of other Senators. The Vice President kindly granted me the privilege of the floor of the Senate during my sojourn in Washington. On the same day I was also admitted to the privileged seats on the floor of the House of Representatives. . . . Since my arrival here I have been quite busy among the grave Senators, the impulsive Representatives of the people, and other functionaries. I took high ground and did not experience any difficulty in making the acquaintance of all the leading men in both houses of Congress, and that of a

¹¹⁷L. D. S. Journal History, September 24, 1850. Orson Hyde, who wasted no love on Babbitt, wrote concerning him on December 29, "Bro. Babbitt, I believe, is a good hand to manage a dirty law suit, but I think, for a representative, you can send a man to Washington who will do you and himself more honor than Mr. Babbitt. I wish Bro. Babbitt no harm, yet his course has been such in Kaneshville, during my absence to the Valley, that I am unwilling to place him by my vote in any very responsible position." (Journal History, December 29, 1850.)

¹¹⁸L. D. S. Journal History, July 19, 1851.

host of other members, though not particularly distinguished, yet highly respectable and influential. I conversed freely with all of them, explained matters to them, and answered objections."¹¹⁹

The memorial and Constitution of Deseret were not presented to the Senate until December 27. The House of Representatives had taken three weeks of noisy debate to elect a Speaker, this not being accomplished until December 22. Until the House was organized there could, of course, be no question of admitting Babbitt as delegate from Deseret.

In presenting the memorial to the Senate, Stephen A. Douglas asked for admission of Deseret as a state, or for a territorial government, leaving the alternative to Congress. Douglas moved that the memorial be referred to the committee on territories, which was done on January 22. Presentation in the House occurred on January 3, and on January 28 the petition requesting the seating of Babbitt was referred to the committee on elections.¹²⁰

A disturbing influence was the presentation on December 31 of a memorial from William Smith, brother of Joseph, and Isaac Sheen, alleging that the Mormons, prior to the emigration from Nauvoo, had vowed perpetual hostility to the United States. This memorial, which was followed by a second memorial from the same parties on March 14, created, according to Dr. Bernhisel "quite a sensation in both wings of the capitol." "The Doctor, feeling it his especial duty and privilege to disabuse the minds of members of Congress called upon them in relation to the Memorial and thereby had many opportunities of setting before them the history and belief of the saints. In his interviews with Senator Underwood [who had presented the Smith-Sheen memorials] he refuted the charge of Smith and Sheen as to the loyalty of our people, their refusal to obey the laws of the United States, etc."¹²¹ William Smith seems to have been a quite unprincipled character, and he was subsequently explicitly disavowed by Isaac Sheen, who explained that he had been misled. The effect of this memorial, however, did nothing to make the Mormon lot any easier.¹²²

In his message to Congress on January 21, 1850, President Taylor remarked that "No material inconvenience will result from

¹¹⁹Letter, John M. Bernhisel to the First Presidency, March 21, 1850, quoted in L. D. S. Journal History for that date.

¹²⁰*Idem*; Bancroft, *History of Utah*, pp. 451, 452.

¹²¹Bernhisel to the First Presidency, March 21, 1850.

¹²²Public opinion and public relations were given the closest attention by the Mormon representatives. Dr. Bernhisel speaks several times of the favorable effect of approving letters sent east by California emigrants who passed through Deseret enroute West; he took an active hand in distributing to the eastern papers church epistles and other letters which aided the Mormon cause; thus on March 21, 1850, writing of the receipt of useful news in a dark period, he says, "That this intelligence reached here at this critical period 'I thanked God and took courage,' and had it republished in all the principal papers of this city." Again on May 24, 1850, he wrote, "Let me entreat and implore you and our friends in the Valley to continue to treat the California emigrants and others with the same kindness and hospitality with which you and they treated them last year. The many flattering letters they wrote to their friends and the press exerted a most salutary influence upon the public mind." The lecture of Colonel Kane, "The Mormons," delivered before the Pennsylvania Historical Society on March 26, 1850, and subsequently revised and reprinted many times, was a powerful aid to the Mormons in the crucial matter of establishing themselves favorably before the public.

the want, for a short period, of a government established by Congress over that part of the Territory [which lies eastward of the new State of California]";¹²³ and Congress took its time about enabling legislation. There was no action on the petition of Babbitt for admission to the House until April 4. Meanwhile Dr. Bernhisel explored possibilities offstage.

Senators Truman Smith and Stephen A. Douglas, both friendly to the Mormons, had, he found, similar plans, which was to legalize the Deseret constitution and provisional government, authorizing the inhabitants to elect their own officers and a delegate to Congress, but no senators. Smith and Douglas proposed that the federal government should defray the expenses of the Deseret government. Babbitt and "the Chairman of the House Committee on Territories", on the other hand, thought that the Mormons should ask nothing more than an ordinary territorial government. Bernhisel was strongly opposed to accepting such a form of government unless so instructed from Great Salt Lake City. "... I am thoroughly convinced from my knowledge of the views and feelings of the President and his Cabinet, that they would not nominate the present officers, nor any persons that we should select, and if they did, the Senate would not confirm them. There is already a number of hungry office hunters waiting for the office of the territories, if they should be organized. I feel entirely unwilling to run the risk of having a set of whippersnappers or broken down politicians to tyrannize [sic] over us, and 'make a man offender for a word', by accepting an ordinary territorial government . . . for I have every reason to apprehend that we should be constantly brought into collision with the Central Government, and be constantly involved in difficulties with them. My humble opinion is that if we cannot get such a form of government, as will authorize us to choose our own officers, that we had better continue our provisional government, and enjoy peace and quiet, until our population is sufficiently large to entitle us to admission into the Union as a State. This is also the desire of the President. It is somewhat uncertain whether they will grant us any government at the present session, and if they do, it will probably not be until the latter part of it, and Congress will probably not adjourn before August or September. . . . Tell me, in case we cannot gain admission as a State, or a territorial government, authorizing us to elect our own officers, whether to accept an ordinary territorial government, authorizing the President and Senate to select and appoint the officers as usual."¹²⁴

Dr. Bernhisel also interviewed other senators. Henry Clay he found still writhing under a stinging letter Joseph Smith had

¹²³Bernhisel to the First Presidency, March 21, 1850. See also James D. Richardson, *Messages and Papers of the Presidents, 1789-1897*, Vol. V, pp. 26-30.

¹²⁴Letter, John M. Bernhisel to the First Presidency, March 5, 1850, Journal History of that date.

written him in 1844, but Clay asserted that he had no prejudices which would prevent him doing the Mormons justice. Lewis Cass said openly, "I shall go for a State; you folks can manage a State as well as anybody else." William H. Seward, like other northerners, disliked the constitution of Deseret because it contained no clause prohibiting slavery. Salmon P. Chase also commented on the constitution, remarking that the declaration of rights asserted that all men should be born free and equal, whereas it ought to say that all men are born free and equal. Thomas Benton disliked the name of Deseret, which to him was repulsive and sounded too much like Desert. Stephen A. Douglas agreed, and preferred Utah to Deseret, saying that he would insist on the name of Utah. Douglas also considered it wise for the limits of Deseret to be curtailed, Bernhisel reported, "for if we had a portion of territory on the coast, others would settle there, and we would be brought into collision with them; and if we had none, the people there would be anxious to get our trade. He also considered that if Congress should grant us the whole of the Territory asked, others not of our faith would settle among and trouble us, and their excuse would be that we had the whole territory and they had no other place to settle."¹²⁵

In a letter of March 27, 1850, Bernhisel reported later interviews with Douglas and Truman Smith.¹²⁶ Douglas thought that Congress would not legalize the Provisional Government of Deseret, and when Bernhisel inquired concerning the expediency of withdrawing the Mormon application, Douglas said that such an action could make little difference, "for Congress deemed it their duty to organize the territories, and that both the great political parties were of the opinion that the question which now agitates Congress, and the nation from one end to the other, could not be settled until the territories were organized." When Bernhisel inquired as to the prospect for officers, should an ordinary territorial government be organized, Douglas replied that he thought there was little prospect for appointment of any member of the Presidency or the Quorum of the Twelve. Bernhisel emphasized the Mormon fear that some "broken-down politicians" or other unacceptable persons would be appointed, and expressed the opinion that unless they received a government authorizing them to accept their own officers, the settlers in Great Salt Lake Valley would rather continue their provisional government, for with that they could get along in peace and quiet until their population was sufficient to entitle them to admission as a state, and that, besides, "this would only be carrying out the wishes of the President." Douglas expressed the opinion that the provisional government was entirely legal.

¹²⁵Bernhisel to the First Presidency, March 21, 1850.

¹²⁶John M. Bernhisel to Brigham Young, March 27, 1850, in L. D. S. Journal History of that date.

Truman Smith was found by Dr. Bernhisel to have a special plan in mind, which was "to introduce a bill about half as long as his little finger into the General Appropriation bill, appropriating a sum of money to be placed into the hands of the President to pay the present officers of Deseret. This would legalize our government." Smith acknowledged the danger that offices in the Utah region might be made a political football if a territorial government were established.

Of Smith's plan, Dr. Bernhisel said, "if it succeeds it will [in Mr. Smith's view] not be until toward the last of the session, for there were so many ambitious men who wanted the credit of settling the territorial and slavery question, that all the plans first proposed would be objected to, but he was willing that Mr. Clay or any other Senator should propose his. The Hon. Senator then asked me whether I would take the responsibility of signing a petition to Congress for a government on his plan? I answered promptly and emphatically that I would, and that I believed that I should be sustained by the people in the Valley. . . . On the 25th instant, the Committee on Territories in the Senate, through their Chairman, Judge Douglass [sic] reported two bills for the organization of the territories of Deseret and New Mexico respectively. They were read by their titles and ordered to be printed. Our limits have been greatly reduced by the Committee, the State of California forms the western boundary, Oregon the northern, and the ridge which divides the waters which flow into the Great Basin from those which flow into the Gulf of California, the southern and eastern. They have also substituted the name Utah for Deseret; in other respects it is almost identical with the act establishing the territorial government of Minnesota. It is not probable that this bill will pass in its present shape, and I still entertain the hope that they will give us the whole of the territory without the limits of California when she is admitted. And it is far from being certain that this or any other bill will pass at the present session. . . . The bill for the organization of New Mexico is with a few slight modifications a transcript of that of Oregon. . . . If Congress grant us but an ordinary territorial government, . . . I shall use my best endeavors to have the officers of the provisional government appointed to the offices of the territorial."

While Bernhisel was laboring so valiantly, Babbitt was visiting in Nauvoo and Council Bluffs. Colonel Kane was ill, and Bernhisel was notified on March 24 that he had been ordered by his physician to the West Indies.¹²⁷

On April 4, 1850, the House Committee on Elections reported on its examination of the credentials of Babbitt. This report, which took an adverse stand on rather legalistic and technical

¹²⁷Colonel Kane was very ill at the time he delivered his lecture on the Mormons on March 26, but after the lecture was revised for the press, he improved so rapidly as to be able to remain home. (See his cited letter to Brigham Young, September 24, 1850.)

grounds, advised against granting Babbitt a seat because he came as "the representative of a State, but of a State not in the Union, and therefore not entitled to representation." It was further contended that the admission of Babbitt to the seat he asked "would be a quasi recognition of the legal existence of the 'State of Deseret' . . . [and] so long . . . as Congress neglects or refuses to adopt as its act what has been done by the people of the Great Salt Lake Valley, your committee are of the opinion that no act should be done by this House which, even by implication, may give force and vitality to a political organization extra-constitutional and independent of the laws of the United States." Finally, with absurdly narrow reasoning, the committee reviewed the manner in which the General Assembly of the State of Deseret had requested admission of the state into the Union on an equal footing with the other states, "or for the establishment of some other form of civil government", and declared, "It is thus apparent that those by whom Mr. Babbitt was sent do not contemplate his admission to a seat in this House until some form of government shall have been given to them by Congress."¹²⁸

The committee thereupon recommended the adoption of a resolution declaring it inexpedient to admit Babbitt to a seat in the House as a delegate from "the alleged State of Deseret."

The report was made the special order of the day for April 20, and was the subject of extended debate until July, when by a vote of 104 to 78 the report of the committee was adopted. It is noteworthy that in this vote slavery and anti-slavery advocates voted according to their individual convictions; both slavery and religious prejudice seem to have been absent in the debate.¹²⁹

The ultimate solution of the problem posed by the Mexican cession grew out of proposals advanced by Henry Clay on January 29. Clay outlined a scheme of compromise whereby he hoped to settle the questions arising out of the difficulties between slave and free states, and one of these resolutions asserted that it was the duty of Congress to establish appropriate territorial governments within all the country acquired from Mexico exclusive of California. On February 28, Senator John Bell of Kentucky introduced another compromise bill which also provided for a territorial government for all the territory west of New Mexico and east of California. Bell considered it inexpedient "to give any assurance to that peculiar people, the Mormons, by providing a separate territorial government for them, or to hold out any expectations that they would ever be admitted into the Union as a separate state." On March 8, Senator H. S. Foote of Mississippi moved that Bell's resolution be referred to a select committee of thirteen, six from the north, six from the south, and one other

¹²⁸*Congressional Globe*, Vol. 21, p. 623. The text of the report is found in *L. D. S. Journal History*, April 4, 1850.

¹²⁹Leland H. Creer, *Utah and the Nation* (Seattle, 1929, 275 pp.), pp. 77-79.

chosen by the twelve. This committee was "to mature some scheme of compromise by which the whole territorial question might be settled." On April 18 Clay's resolutions of January were referred to this committee, which was elected next day, Clay being chosen chairman.

The deliberations of this committee were reported on May 8 by Henry Clay. Seven proposals were set forth. By the first, the admission of any new state or states formed out of Texas was to be postponed until such state or states should present itself to be received into the Union. By the second, California was to be admitted as a free state with the boundaries her citizens had proposed. By the third, territorial governments for New Mexico and Utah were to be established, to include all the country ceded by Mexico outside of California. By the fourth, the two preceding proposals were to be incorporated in the same bill, to insure the establishment without delay of some form of government in that region. By the fifth, the northern and western boundaries for Texas were to be definitely established, and that state was to be deprived of all jurisdiction over New Mexican territory with the grant to Texas of a pecuniary equivalent. By the sixth, a more effective fugitive slave law was to be enacted. And by the seventh the slave trade was to be prohibited in the District of Columbia.¹³⁰

Slavery was the great and burning question of the hour, and no major question of national policy was free of the passions it engendered. On January 26, 1850, Wilford Woodruff wrote Orson Pratt, ". . . By letters from corresponding friends at Washington, and from the public journals of the day, we are given to understand that there is every prospect of a burst up at Washington before the close of the session. All parties have now ceased ridiculing the idea of dissolving the American Union, but the two great parties, North and South, are rushing into it with all possible speed. War, blood, and thunder, seem to be the present cry and expectation. It is now much more expected that the North and South will be divided this session, than that there will be any business done for the benefit of the territories or any other portion of the country. Thus, Brother Pratt, the storm is coming and no mistake, and it will burst upon the world before they are prepared for it."¹³¹

And the sober Dr. Bernhisel wrote from Washington March 21, "The great and grave question of slavery which now agitates the country and which I believe with all the conviction my mind is capable of entertaining, will never be settled, and will sooner or later shake this Union to its center; and as revolutions never roll backward, may break it into as many fragments as there are States composing it, has been the standing topic of discussion in both

¹³⁰*Ibid.*, pp. 82, 83. Creer's account from the *Congressional Globe*, is probably the most concise examination of the Washington developments.

¹³¹*Millennial Star*, Vol. 12, p. 75.

wings of the Capitol since the commencement of the session, and is likely to be during the remainder of it. It was brought to bear upon the election of Speaker, and since then in some shape or form upon almost all subjects of legislation, though these have been, like angels' visits, few and far between."¹³²

Through these tempestuous passions the Compromise or Omnibus Bill had to make its way.¹³³ On July 3 Bernhisel wrote from Washington concerning the progress of the bill. "Numerous amendments have been proposed to this bill, a few of which have been adopted, but the greater part were rejected.

"The discussion has been thorough and protracted; it is, however, expected that the question on engrossing it for a third reading will be taken in the course of two or three days. It is supposed that it will be ordered to be engrossed, but that its final passage is still involved in doubt and uncertainty. If it pass the Senate, it is believed there is little or no prospect of its passing the House. If rejected by either branch of the legislature, the bill for the admission of California as a separate and independent measure, which is still under discussion in the House, will be taken up by the Senate; and as there are decided majorities in both houses in favor of her admission, she will in all probability be admitted, unless the South resort to some parliamentary stratagem to prevent the transacting of business. When California is disposed of, the territories will take their turn, but what their fate will be no man can at present foretell . . ."¹³⁴

On August 9 Bernhisel wrote again, to relate that the Omnibus Bill, apparently whipped into satisfactory shape at last, had all at once been shorn of all its provisions except the bill providing for the establishment of a territorial government for Utah, and that this bill, being approved and dispatched to the House, had been received with hearty laughter, some of the members "enquiring what had become of the Omnibus, as only one passenger had reached the House in safety." Bernhisel continued further, "Six or Seven Bills having been reported by individual members and committees of both Houses for the organization of our Territory, all of which limited us to the Great Basin and being exceedingly desirous to procure an enlargement of the proposed boundaries, I labored with my pen and otherwise used my best endeavors to attain 'a consummation so devoutly to be wished,' and I am gratified to be able to inform you that my efforts were crowned with complete success. . . . What I wished was, that the 37th parallel should form the Southern, and the crests of the Rocky Mountains the eastern boundaries, and these limits were established just before the bill was ordered to be engrossed. For more

¹³²Bernhisel to the First Presidency, March 21, 1850.

¹³³See Creer, *op. cit.*, pp. 84-86, for a discussion of the development of the slavery debate, especially as it touched on the Utah question.

¹³⁴John M. Bernhisel to Brigham Young, July 3, 1850, in L. D. S. Journal History of that date.

Territory I durst not venture to ask, lest we should receive none exterior to the Basin. Oregon forms the northern, and the proposed State of California the western boundary." The doctor further noted that two old enemies of the Mormons, Senators Benton and Atchison of Missouri, offered no opposition, Benton being of kindly disposition, and decidedly in favor of the Utah territorial bill, and Atchison remarking that "the application of Utah was the only one becoming in a Territory of the United States to make. She has asked for a Government and was willing to take what we choose to give her." In connection with California's prospects, he added that the bill for admission of California would probably pass the Senate early the following week, "but there is a combination in the House of the Ultras of the south to keep California out altogether, whether they will succeed is rather problematical. A portion of the press and some of the orators of south Carolina openly and boldly advocate a dissolution of the Union."¹⁸⁵

The Compromise Bill, however, finally passed the House in much its original form on September 7, 1850, by a vote of 97-85, and two days later was approved in the Senate by a vote of 31-10. With approval by President Millard Fillmore the bill became law on September 9, and Deseret officially had passed from history.¹⁸⁶

By the terms of the Organic Act, Utah was given all the territory which had been requested, except that the Oregon line along the 42nd parallel was made the northern boundary in place of the topographically more logical boundary proposed by the adherents of Deseret, while on the south the 37th parallel of north latitude (now the Arizona line) was established as the boundary. Otherwise the territory stretched from the Sierra Nevada Mountains to the summits of the Rockies. The governor was appointed for four years, unless sooner removed by the President, and was to be commander-in-chief of the militia, and superintendent of Indian affairs, in addition to exercising ordinary executive powers. Provision was also made for a secretary and for a legislative assembly, which latter was to consist of a Council of thirteen members, and a House of Representatives of twenty-six members, with sessions of the assembly limited to forty days. Suffrage was extended to every free white male inhabitant above the age of twenty-one years resident in the Territory at the time of passage of the Organic Act, with provision that the right of suffrage and of holding office was to be exercised only by citizens of the United States. The legislature was granted legislative powers over all rightful subjects of legislation except that no law was to be passed interfering with the primary disposal of the soil and that United States property was not to be taxed, nor non-residents be taxed at a higher rate than residents. Legislation was to be subject to review

¹⁸⁵John M. Bernhisel to Brigham Young, August 9, 1850, in *Journal History* of that date.

¹⁸⁶*Congressional Globe*, Vol. 22, pp. 1772-1776, 1784.

by Congress. The judicial power was vested in a supreme court, district courts, probate courts, and justices of the peace. Three district courts were to be provided for, and the jurisdiction of the several courts was to be "as limited by law". Provision was made for an attorney and a marshal, who, like the governor, secretary, chief justice, and associate justices, were to be nominated by the President and confirmed by Congress. The governor was to receive an annual salary of \$1500, in addition to a salary of \$1000 for his services as superintendent of Indian affairs. The justices and the secretary were to receive annual salaries of \$1800, and members of the legislature were to receive salaries of \$3 per diem while in attendance, plus a mileage allowance of \$3 for each twenty miles traveled "on the nearest usually traveled route". The attorney general and marshal were to be paid equivalent salaries to those paid in Oregon. A sum of \$20,000 was appropriated to be applied to the erection of suitable public buildings at the seat of government, and another \$5,000 was appropriated for the purchase of a territorial library. A delegate to the House of Representatives was to be elected; the lands in the territory were to be surveyed "preparatory to bringing the same into market", with two specific sections in each township reserved to be applied to schools in the territory; the governor was instructed to define the judicial districts and assign the judges thereto; and, finally, the constitution and laws of the United States were declared extended over and declared to be in force in the Territory of Utah wherever those laws might be applicable. The Organic Act, here briefly summarized, was published in every compilation of Utah laws between 1851 and 1895.

It should be remarked that the congressional liking for the name of Utah was not shared by the inhabitants of Deseret, as will be seen in the discussion of the 1872 constitutional convention. Utah was one of the several forms of the name for the Ute Indians, who were regarded by the Mormons with a little fear, more pity, and a great deal of contempt.

How perilous a path had been trodden to a congressionally-sanctioned government, and by how narrow a margin the Mormons had been successful, is shown by a happening in July. On the 7th of that month Almon W. Babbitt wrote from Washington to Young, "You will learn from President Taylor's messages that he is not our friend; this I know for myself beyond a doubt. He did say before twenty members of Congress that he would veto any bill passed, state or territorial, for the Mormons,—that they were a pack of out-laws, and had been driven out of two States and were not fit for self-government. I went to him in person with Col. Warren and charged these sayings upon him and he owned that he had so said; and tried to reason with me in relation 'to the absurdity of the Mormons asking for a State or Territorial govern-

ment.' "¹³⁷ It must have seemed to the Mormons almost the judgment of God that on July 9 Zachary Taylor died, and that the presidency of the United States fell to Millard Fillmore, who, largely owing to the indefatigable labors of Dr. Bernhisel, was very friendly to the Mormons.

A letter from Bernhisel to Young on November 9, 1850, outlines a pitfall Deseret escaped: "The members of Congress from the non-slaveholding States were so fully determined not 'to bow the knee to the dark spirit of slavery' that if they had believed that there were even half a dozen slaves in Utah, or that slavery would ever be tolerated in it, they would not have granted us a Territorial organization, nor can our Territory ever be admitted as a State into the Union, unless our constitution contain a clause prohibiting the introduction of slavery."¹³⁸

The tact and good sense of Dr. Bernhisel is nowhere better displayed than in the letter to Young on September 7, upon the passage by the House of the Utah bill. Referring to his letter of August 9, and the comment therein on territory, he continued, "So thoroughly was I convinced that not one inch beyond the limits which were finally conceded to us, could be obtained, that I did not then express a desire for any more, though I had at an early period of the session earnestly contended for the whole territory embraced within the limits described in the Preamble of the Constitution of Deseret. But if I had at any time within three months anterior of the passage of the bill through the Senate insisted upon a greater extent of territory, the proposition would not have been entertained for a single moment, and our territorial limits would have been confined to the outlines of the Great Basin. The following remarks will illustrate this point: The hotspurs of the south have, during the whole of the session thus far, insisted that the Missouri Compromise line, which is the parallel of 36 degrees 30 minutes, should be extended to the Pacific Ocean, and be the permanent boundary between slavery and freedom; affirming most unequivocally that nothing less would satisfy the South. These gentlemen were, therefore, desirous to make that line our southern boundary, though they were entirely averse to permit us to transcend it, or to encroach to the slightest extent upon territory which

¹³⁷Almon W. Babbitt to Brigham Young, July 7, 1850, in *Journal History* of that date. Earlier Zachary Taylor had been not unfriendly. It had been his idea to combine Deseret and California into a single temporary state. In his letter of March 21, 1850, Dr. Bernhisel said, describing an interview, "The President is rough enough, though he does not appear to be very ready; he is an exceedingly plain man in the fullest sense of the term, in person and in intellect, but he enjoys what in my estimation is far better; the reputation of being a man of strict honesty and sterling integrity. He is a mere military man, and appears to be entirely out of his element; he made a few enquiries relative to the valley. Having stated to him the object of my visit to Washington, he said, 'That is entirely in the breast of Congress.' Since my first interview with him, [December 21, 1849] he has been somewhat prejudiced against us by the slanderous reports in circulation, but that there will be no difficulty in that quarter, I believe upon what I regard as excellent authority." In later years the Mormon leaders often expressed themselves bitterly on the subject of Taylor's change of heart.

¹³⁸L. D. S. *Journal History*, November 9, 1850. In actuality there were a few slaves in Deseret at this time. See Jack Beller, "Slavery in Utah," in *Utah Historical Quarterly*, October, 1929, pp. 122-126.

they regarded as justly belonging to the dark spirit of slavery. On the other hand the extremists of the north were strenuously opposed to making the line of the demarcation already mentioned our southern boundary, or doing anything from which it might be deduced even by implication, that they were in favor of the extension of the Missouri Compromise line, or the introduction of involuntary servitude on either side of that line.

"Between the Great Basin and the Rocky Mountains it was in contemplation to establish another Territory at some future period, but I happily succeeded in convincing grave Senators that that from its topography was utterly impracticable, and hence the extension eastward of the limits previously assigned us. . . . The ignorance of the collected wisdom of the nation in regard to our region of country is most profound."¹³⁰

As the fate of Deseret was closed by September 10, 1850, the letter written on that date to Dr. Bernhisel and Almon W. Babbitt by Daniel H. Wells, Parley P. Pratt, and Orson Spencer, in behalf of the General Assembly of the State of Deseret, has value primarily as indicating the trend of feeling in the mountain settlements in regard to their political destiny.

The agents of Deseret were told that if Congress had passed an act for the organization of a territory called "Utah Territory", then the Mormons could only yield their "quiet acquiescence therein for the time being; only urging the more strenuous, the early adjustment of [their] boundaries, and acceptance of [their] Constitution and admission." If, on the other hand, Congress had adjourned without acting in behalf of a government for Deseret, Bernhisel and Babbitt were to urge only the claims of the Mormons for admission as a state. "Had Congress given us a Territorial organization in the first instance, all would have been well, for then we could have traveled accordingly, [but] if . . . the people were in duty bound to form and establish some kind of an organization to insure peace, order, protection and prosperity, during the inaction of Congress and having a right to choose for themselves have chosen that form of government which ultimately must and will be acceded to [by] Congress, [what] propriety is there at this late hour of receding to what might have been well enough, it is true, in the first instance, a Territorial Government. . . . Our overflowing and abundant population will [soon] require that admission which it would be extremely impolitic and inconsistent to deny. Far preferable is it for us to remain as we are, until Congress shall see proper to admit us as a State. Do they object to the name of our State? It is good enough for us who have to wear it. Do they object to our numbers as being insufficient? Let them take the census! Do they object to our boundaries? Let them leave it to the inhabitants who dwell therein to decide, and

¹³⁰John M. Bernhisel to Brigham Young, September 7, 1850, in *Journal History* for that date.

if they choose to go into Western California, or have a State of their own south of us, so let it be. . . . We have explored for hundreds of miles in various directions, and find here and there a fertile spot amidst vast deserts and mountain heights; yet, all we have included in our boundaries is accessible for all useful and necessary purposes pertaining to Government. We admit the boundary asked for is large, when we consider the area; but if land susceptible of cultivation, that will admit of a dense population, is taken into consideration, it is not so large; and we are not advised of a single dissenting voice within our proposed boundaries, that object to being included therein.

" . . . What propriety or consistency is there in granting us a Territorial, and California a State Government when our actual settlers outnumber them as five to three;¹⁴⁰ and moreover, those who have been expected to locate there, are at this moment flowing back upon us by hundreds and thousands? . . . Should not a nation be willing, nay, seek to cherish those who are endeavoring to render her most sterile and barren domain productive; who are extending settlements, making improvements, and developing the national resources of hitherto unexplored regions, thereby adding to the national wealth; not, it is true, merely in gold, but in the proudest trophies of any enlightened nation, that of civilized society . . .

"Let Congress give us a Government based as all Republican Governments should be, upon the authority of the people; let them decide our boundaries in accordance with the wishes of the actual settlers, or residents therein, upon the principle of common Justice, according and guaranteeing unto us those rights and immunities only, which are the privilege of American citizens in like, or similar circumstances . . ."¹⁴¹

Though Deseret had been translated into the Territory of Utah, Dr. Bernhisel's work was not done, for it was now important that officers acceptable to the Mormons be appointed. Shortly after approval of the Utah bill Bernhisel had an interview with President Fillmore on the subject. Of this meeting the doctor wrote Brigham Young, "He is quite favorably disposed, and I entertain but little doubt of your appointment. He inquired whether you would support the administration if you should be appointed. I replied that I thought you would. The names of the following gentlemen have been presented: Brigham Young for Governor, Willard Richards for Secretary of the Territory, Zerubbable [sic] Snow, of Ohio, for Chief Justice, Daniel F. Miller, Iowa, for one of the Associate Justices, Joseph L. Heywood for Marshall. The names of the other associate justice and of the United States Attorney I will give you in my next. Mr. Snow was baptized

¹⁴⁰This statement has any validity only in terms of families; the Mormon migration, unlike the California gold rush, was a family migration.

¹⁴¹*The Deseret News*, September 21, 1850.

again last winter. Mr. Miller is not a member of the Church, though friendly and is known to John Smith, Patriarch, and others. I have strong hopes that the whole ticket will be appointed. The President has requested my views in writing of the gentlemen whose names I presented to him for officers. I shall comply with his request tomorrow.¹⁴²

On the 16th Dr. Bernhisel submitted to Fillmore a recommendation for Brigham Young, governor, Willard Richards, secretary, Zerubbabel Snow, chief justice, Heber C. Kimball and Newel K. Whitney, associate justices, Seth M. Blair, attorney, and Joseph L. Heywood, marshal, adding, "The people of Utah cannot but consider it their right, as American citizens, to be governed by men of their own choice, entitled to their confidence, and united with them in opinion and feeling; but the undersigned will add that for especial and important reasons which grow out of the peculiar circumstances of the community of Deseret, and its government, the people are prepared to esteem as a high favor the nomination by the President of the entire list of officers above submitted, as it stands, and will not fail to evince that they remember it with gratitude."¹⁴³

On September 20 President Fillmore named his appointees, and the appointments were confirmed by the Senate on September 30. These officers were Brigham Young, governor; Broughton D. Harris, of Vermont, secretary; Joseph Buffington of Pennsylvania, chief justice; Perry C. Brochus of Alabama, and Zerubbabel Snow of Ohio, associate justices; Seth M. Blair of Utah, U. S. attorney; and Joseph L. Heywood of Utah, U. S. marshal.

Concerning these appointments Dr. Bernhisel wrote on October 2, "I greatly regret that all the officers were not appointed from our number. Our best and truest friends here have expressed an anxious desire that we should get on peaceably and administer the government in such a manner as will reflect credit on ourselves as well as on those who aided in procuring the establishment of it. . . . I am gratified to be able to inform you that the President has evinced the most liberal and friendly feelings toward our people."¹⁴⁴

A subsequent letter of November 9 added, "It is a matter of deep regret that the whole of [the officers for Utah] were not appointed from among our number, but still the appointing power has been far more liberal to us, than it has ever been to any other Territory, for all the officers in the Territories heretofore established were filled by citizens selected from the States. . . . [The] appointment [of men I earnestly recommended] would no doubt have been gratifying to all of us. I did not present the name of

¹⁴²John M. Bernhisel to Brigham Young, September 12, 1850, in *Journal History* for that date.

¹⁴³John M. Bernhisel to President Millard Fillmore, September 16, 1850, in *Journal History* for that date.

¹⁴⁴John M. Bernhisel to Brigham Young, October 2, 1850, in *Journal History* for that date.

Mr. John Taylor because he was absent in Europe nor that of Daniel H. Wells, Esq., for United States Attorney, because I had previously ascertained that no gentleman who was not learned in the law could be appointed. . . . Congress adjourned at high noon on Monday the 30th of September. Having accomplished the object of my mission, though not so satisfactorily in all respects as I could have desired, and having received the commissions [for the territorial officials], I took my departure, on the 4th of October, from Washington, after having spent more than ten consecutive months amidst its exciting scenes.¹⁴⁵

News of passage of the Utah bill reached Great Salt Lake City on October 15, but a copy of the act was not received until after November 20. It was first printed in Utah in *The Deseret News* for November 30, 1850. Apprised of his appointment by newspaper reports which reached him January 28, Brigham Young took oath of office before Daniel H. Wells, chief justice of the State of Deseret, on February 3, 1851. The first officer to arrive from the east was Lemuel G. Brandebury, appointed when Bufington refused his commission. Brandebury appeared June 7, followed July 19 by Zerubbabel Snow, Broughton D. Harris, two Indian sub-agents, Stephen B. Rose and Henry R. Day, and Bernhisel and Babbitt.¹⁴⁶ Brocchus arrived August 17, 1851.

The first legislature of the Territory of Utah convened September 22, 1851, and on October 4, by joint resolution, the laws of the provisional government were legalized: "Resolved, by the Legislative Assembly of the Territory of Utah: That the laws heretofore passed by the provisional government of the State of Deseret, and which do not conflict with the 'Organic Act' of said Territory, be, and the same are hereby declared to be legal and in full force and virtue, and shall so remain until superseded by the action of the Legislative Assembly of the Territory of Utah."¹⁴⁷ On the same day a second resolution was passed, by which a joint committee consisting of two members of the Council and three of the House of Representatives, was instructed "to revise and classify the laws of the State of Deseret, which have been legalized by this assembly, so as to apply to the Territorial organization of the Territory, and that they be, and are hereby authorized to perform said duty during the recess of the Legislative Assembly, and make

¹⁴⁵John M. Bernhisel to Brigham Young, November 9, 1850, in *Journal History* for that date. Dr. Bernhisel had done a magnificent job; one must admire his pertinacity, urbanity, and intelligence. On December 29, 1850, Orson Hyde wrote Brigham Young, concerning Utah's relative good fortune, "It is God working through the Whigs, I think, by the fervent prayers of his people and servants." Hyde might well have credited Dr. Bernhisel.

¹⁴⁶No attempt can be made here to examine the unhappy conflicts between federal officials and the Mormons, which commenced on September 8, with Judge Brocchus' famous address in the Tabernacle, but this background must be kept in mind in following the subsequent history of Deseret. Creer, *op. cit.*, pp. 86-106, examines this phase of Utah history.

¹⁴⁷*Laws of Utah, 1852*, p. 222.

report to the Legislature on the first Monday of January next."¹⁴⁸ The laws of Deseret were thus incorporated into Utah law, and constituted the firm foundation for law in the Territory.

One further significant act of this first territorial legislature should also be noted. The principle on which the High Council operated was given a legal basis on March 6, 1852, by a resolution providing that "it shall be lawful for each organized county to elect a council of twelve Select men as Referees, whose duty it shall be to decide all cases in litigation which may come before them by the mutual consent of the parties interested; and their decision in all cases so brought before them shall be the end of all controversy in the matter. A majority of said Selectmen shall constitute a quorum to do business: Provided, That nothing herein contained shall be so construed as to vest in said council any judicial power of said Territory."¹⁴⁹ Whether this law ever had any meaning or represents only a legal curiosity has not been ascertained.

IV. The Ghost Government of Deseret

It might have been expected that with the formal transition from state to territorial government, the history of Deseret should close. On the contrary, what was in some respects the most interesting part of the story of Deseret yet remained to be unfolded. Nowhere has this singular history been adequately treated, and many wild tales have been told concerning the "ghost government". The final section of this discussion of Deseret will therefore examine in complete detail this unique institution.

Probably the best expression of the sensational view of the "ghost government" of Deseret is by T. B. H. Stenhouse. "On the 5th of April, 1852 [1851], Deseret merged into Utah officially, but the State organization was continued and exists today as much as ever it did. Norminally the civil authority is Utah: *de facto*, it is Deseret. The Government pays the Territorial legislators their *per diem* for making the laws of Utah and hands them their mileage at the end of the session. On the day succeeding the close, Brigham as governor of Deseret, convenes them as a State legislature, reads his message to them, and some one proposes that the laws of the legislature of Utah be adopted by the State of Deseret. In this manner, Brigham is continued governor *de facto* and hence the tenacity with which the name of 'Deseret' is preserved. To give to the State that succeeds the Territory of Utah any other name than 'Deseret' would be to throw discredit upon the inspiration that named the provisional Government in 1849. Let but the Federal Congress name it 'Deseret'—come when it may into the Union—and Brigham and his worshippers will see, through

¹⁴⁸*ibid.*, p. 215.

¹⁴⁹*ibid.*, pp. 208-209.

all the tortuous windings of its history for over a score of years, the finger of God, and the dark deeds of the past will be sanctified in their sight. They will believe that 'the Lord' has been with Brigham throughout.¹⁵⁰

From Stenhouse one would assume that Deseret never ceased to exist regardless of the establishment of the Territory of Utah. The truth is rather more interesting.

The constant aim of Deseret has been to have a congressionally sanctioned government under which the inhabitants could rule themselves. The territorial legislature of 1852 memorialized Congress to authorize a constitutional convention.¹⁵¹ In 1853 Congress was again memorialized for a constitutional convention and another memorial requested that the territorial offices be made elective.¹⁵² In 1854, for the third consecutive year, Congress was memorialized to call a convention for forming a state government.¹⁵³

Congress having ignored these memorials, the legislature of 1855-56 passed an act providing for calling a constitutional convention, and this body, composed of delegates from every county except Green River, met in Great Salt Lake City on March 17, 1856, sitting until the 27th, when the proposed constitution for the State of Deseret was approved. George A. Smith and John Taylor were elected delegates to lay before Congress the request for admission into the Union. The constitution was approved by a popular election on April 7. Congress was by no means disposed to grant the application for statehood, however, and the memorial and constitution were not even presented.¹⁵⁴

The proposed constitution of 1856, like that of 1862, was only an edition of the 1849 document. Very few changes were made, and these were mostly taken in cognizance of a functioning civil government which had not existed in such detail in 1849.¹⁵⁵

The affair of the Utah Expedition hardly made the next few years propitious for a further attempt to secure admission to the

¹⁵⁰T. B. H. Stenhouse *Rocky Mountain Saints*, (New York, 1873, 761 pp.), pp. 275, 276.

¹⁵¹*Laws of Utah*, 1852, p. 205. Congress was also memorialized to pay the expenses of the legislature of Deseret. Congress rarely paid any attention to memorials from Utah, and its appropriations for the territory invariably were niggardly.

¹⁵²*Laws of Utah*, VREC, pp. 76, 77, 78, 79.

¹⁵³*Laws of Utah*, 1854, p. 32.

¹⁵⁴*The Deseret News*, March 19, April 2, 1856. Bancroft (p. 484) ascribes to polygamy Utah's ill-fortune. "... Otherwise there were many arguments in favor of the Mormons. . . Their population . . . was larger than that of several of the younger states when first admitted. They were a prosperous and fairly intelligent community. . . there could be no doubt of their ability to maintain a government; and thus far, at least, there was no valid reason to question their loyalty." According to Leonard E. Harrington, the appointed delegates "found the prejudice so strong against us [in Washington, D. C.], they did not present their credentials or documents. Many of the officers of the Government and members of Congress had given credence to false rumors and lying slanders against the Mormon people, till it appeared our cause could not be heard. . ." ("Journal of Leonard E. Harrington," *Utah Historical Quarterly*, January 1940, pp. 20, 21.)

¹⁵⁵The constitution of 1856 may be found in full in the *Deseret News*, April 2, 1856, reprinted in *Millennial Star*, Vol. 18, pp. 417-421. A comparative discussion of the constitutions of 1849, 1856, 1862, 1872, 1882, and 1887, a somewhat technical commentary by Dale L. Morgan, may be consulted in the files of the Utah Historical Records Survey, Salt Lake City, Utah.

Union, but the catastrophic trend of national affairs, culminating in the Civil War, led in 1862 to a third major effort toward establishment of the State of Deseret. Few more extraordinary chapters are afforded American history.

Comment has already been made on the Mormon belief in the imminent establishment of the literal Kingdom of God, and on the parallel belief that as a people they were the truest heirs of the Constitution. The Mormons believed themselves to live in an age of great apostasy, which extended not only to religious but to political and other matters. In a sense the church itself was conceived as the Kingdom of God, but at the same time, and in a larger sense, the Kingdom of God was to be forthcoming from the future. The "Kingdom" was, however, not conceived as merely millennial; it was to proceed by social evolution.

Writing in the *Millennial Star* in 1862, Eugene Henriod thus explained, "Many have thought, and still retain the idea, that at a certain period (and many have looked for that time for years past) the kingdom of God would declare itself independent, regardless of the capabilities of the people to maintain that independence, and that when this had taken place, no more obstacles would prevent its increase, and that it would at once crush everything before it which was opposed to its welfare. This is erroneous. Our heavenly Father has so far used natural means to accomplish what has been done, and will continue to do so; and all the steps that will enhance its further progress will be of that nature. An increase of faith and works among his people will naturally call for an increase of Territory and the resources to maintain its wants, and that will be obtained legally, and as far as practicable with the sanction of that government in the midst of which the Saints dwell; for it should be remembered, that the elements of increase and progression are to be found within the Constitution of the United States, which secure unto all men, who become citizens of that government, a right to 'life, liberty, and the pursuit of happiness', and those when fully enjoyed by a people who would use and apply them to the establishment of righteousness would bring about the purposes of the Almighty, in liberating his people from all former bondage, and thus, as his kingdom increases, diminish the power and reduce the influence of that or any other nation connected with them."¹⁵⁰

This viewpoint quite fairly represents the Mormon thinking of this period. The Constitution was ordained of God; they would live by it and uphold it. But also the Mormons were inclined to be bitter concerning the government which ruled under the Constitution; as early as 1832 Joseph Smith prophesied that a civil war would break out in South Carolina. After the removal to Utah,

¹⁵⁰Eugene Henriod, "How and When Will the Kingdom of God Become Independent?" *Millennial Star*, Vol. 24, pp. 337, 338.

when governmental difficulties became federal rather than local, as theretofore they had been, the Mormon consciousness of being a distinct and separate people, and their bitterness, was notably heightened.

While the Johnston Expedition was enroute to Utah, on September 13, 1857, Brigham Young declared, "The Government of our country will go by the board through its own corruption, and no power can save it. 'Mormonism' will take an almighty stride into influence and power, while our enemies will sink and become weaker and weaker and be no more; and I know it just as well now as I shall five years hence."¹⁵⁷

On April 6, 1861, barely three weeks before the attack on Fort Sumter, Young and Heber C. Kimball addressed a congregation in Great Salt Lake City in the same vein. "The whole government is gone," Young said, "it is as weak as water. I heard Joseph Smith say, nearly thirty years ago, 'They shall have mobbings to their heart's content, if they do not redress the wrongs of the Latter-day Saints.' Mobs will not decrease, but will increase until the whole Government becomes a mob and eventually it will be State against State, city against city, neighborhood neighborhood, Methodist against Methodist, and so on. It will be Christian against Christian and man against man; and those who will not take up the sword against their neighbor, must needs flee to Zion."¹⁵⁸

With respect to Deseret, Kimball's remarks were even more to the point: "... We shall never secede from the Constitution of the United States. We shall not stop on the way of progress, but we shall make preparations for future events. The south will secede from the north, and the north will secede from us, and God will make the people free as fast as we are able to bear it."¹⁵⁹

The outbreak of the Civil War, seen as the fulfillment of the Joseph Smith prophecy, immensely excited the Mormons, not only in Utah but in Europe. The consequences of the war could hardly be foreseen, but there was a disposition to believe that a just God was at last allowing the wickedness of the people to brim over into war and chaos. It was with a consciousness of all the potentialities attendant upon this lethal struggle that the Mormons, late in 1861, turned their attention once more to the formation of a state government.

On December 19, 1861, the territorial legislature passed an act calling for a general election, on January 6, 1862, of sixty-five delegates to a constitutional convention. This act was, however, disconcertingly vetoed by Governor John W. Dawson during the bare three weeks he was in the Territory. His reasons were that in-

¹⁵⁷*Journal of Discourses*, Vol. 9, p. 5, quoted in *Millennial Star*, Vol 27, p. 188.

¹⁵⁸*Ibid.*, Vol. 5, pp. 229, 235, quoted in *idem*.

¹⁵⁹*The Deseret News*, Vol. 9, p. 65 (May 1, 1861).

sufficient time for notice of election was given, that Congress ought first to approve, and, more especially, that Congress ought first to pass an act authorizing the holding of a constitutional convention.¹⁰⁰ This final reason has an ironic sound, in view of the entire lack of constructive interest in Utah displayed by Congress.

But the Mormon people were not to be balked by the arbitrary act of a federal official. The several counties on January 6 elected delegates to the constitutional convention, who convened on January 20. The constitution was drafted by a committee of five, headed by George A. Smith, and was passed by the convention on January 22, 1862. Except in its recognition of boundary changes decreed by Congress since that time, and in other minor particulars, the constitution was a reproduction of that of 1849-1856.¹⁰¹

Before adjourning on the 23rd, the convention unanimously nominated Brigham Young for governor, Heber C. Kimball for lieutenant governor, and John M. Bernhisel for member of Congress. In the election on March 3 the returns, as reported to the convention on March 17, showed, 9,880 votes cast. Young and Kimball each received that total; the constitution received two less, and Dr. Bernhisel eighteen less.¹⁰²

If there existed any doubt as to the manner in which the Mormons regarded their work of 1862, a speech by Brigham Young on January 19, 1862, would dispel it. "... We are about to constitutionally organize a State government, and to again petition for admission into the family of States, to secure to ourselves the inalienable rights of American citizens. This we do to please ourselves and our God. If we can please our heavenly Father, our elder brother Jesus Christ, and the holy angels and the saints that have lived and died, and please ourselves in righteousness, we then ask no odds of all hell and their abettors. . . We will honor and preserve inviolate the Constitution of our country, as we ever have.

"I was lately looking over the Constitution we framed for a State government six years ago. It is very near as we want it now. We wish a Constitution that is republican. In it treason is stated to be one of the highest crimes in any government, and to consist in levying war on this State. Who has done that? James Buchanan has, and so have those who associated with him, in sending an army here; and the very great majority of the priests and people said amen. They are as much treasoners as ever lived on this earth, and the day will come when justice will be meted out to them. They made war on the loyal citizens of this Territory; and if they again make war upon us, I know not what the Lord may do. We will try to do what the Lord wants us to do. . .

¹⁰⁰*Ibid.*, December 25, 1861.

¹⁰¹The 1862 constitution is printed in *The Deseret News*, January 29, 1862.

¹⁰²*Ibid.*, January 8, 22, 29; March 19; April 18, 1862.

"I can tell all the world that we mean to sustain the Constitution of the United States and all righteous laws. We are not by any means treasoners, secessionists, nor abolitionists. We are neither negro-drivers nor negro-worshippers. We belong to the family of heaven, and we intend to walk over every unrighteous and unholy principle, and view everybody and everything as it is before God, and put everything in its place.

"A good housewife, whether she possesses much or little, will have a place for everything she has in the house, and make her house orderly and comfortable, and everything when wanted can be found in its place. So we adjust ourselves according to the lawful doings of the nation, and will not secede from our government; neither will we be traitors to Jesus Christ, through ungodly rulers, but we will take the privilege to chasten them and guide them into the paths of right, if they will be led therein; this we will do fearlessly and perfectly regardless of consequences, for if God is for us it matters little who are against us."¹²⁰³

The elected legislature of the State of Deseret met on April 14, summoned into session by Brigham Young's March 17 proclamation as governor-elect. To this legislature, on April 14, Young delivered the first governor's message. This document was a simple expression of the forceful Mormon view that Congress had no right to rule the territories when the territories were not granted representation in Congress. It quoted W. H. Seward on the question of the irrelevancy of the number-of-inhabitants issue, summarized previous efforts to obtain admission to the Union, and the parallel history of other states and territories, suggested that the government, financially embarrassed by the war, would in the admission of Utah save some \$34,000 which otherwise would be expended annually in Utah, and finally suggested that after election of two senators and the adoption of whatever memorials might be deemed proper, the legislature should "enact that the laws now in force in the Territory of Utah be in full force and virtue in law in the State of Deseret, until superceded by future legislation."¹²⁰⁴ The governor's message thus confined itself strictly to the political considerations immediately at issue; whatever might be destined to follow was not at the moment germane.

¹²⁰³*Ibid.*, February 19, 1862.

¹²⁰⁴ "Governor's Message to the First General Assembly of the State of Deseret," 3 pp. in *Constitution of the State of Deseret*, (op. cit.); also printed in *The Deseret News*, April 16, 1862, from which reprinted in *Millennial Star*, Vol. 24, pp. 468-470. The 1862 General Assembly was composed of the following men: Senators: Albert Carrington, Wilford Woodruff, John Taylor, and Elijah F. Sheets (representing Great Salt Lake, Summit, Green River and Tooele counties); John W. Hess (Davis and Morgan); Orson Hyde (Sanpete); Ezra T. Benson (Cache); Lorenzo Snow (Weber and Box Elder); and Leonard W. Harrington and James W. Cummings (Utah and Wasatch). Representatives: Albert P. Rockwood, F. D. Richards, Reuben Miller, N. B. Clawson, Joseph A. Young, and Edwin D. Woolley (Great Salt Lake County); John Stoker and William B. Smith (Davis and Morgan); Bernard Snow and Madison D. Hambleton (Sanpete); Peter Maughan and William B. Preston (Weber); Jonathan C. Wright (Box Elder); Thomas Rhoads (Summit); Eli B. Kelsey (Tooele); Timothy B. Foote (Juab); Thomas R. King (Millard); William J. Cox (Beaver); Lorenzo H. Hatch, A. K. Thurber, and Aaron Johnson (Utah); and George W. Bean (Wasatch). Iron and Washington counties seem unrepresented, perhaps an error of omission by *The Deseret News*.

The session of the General Assembly lasted four days, or until the 17th, when it adjourned to "the third Monday of January next." During its sittings ten acts were passed, "relating to the duties of the Secretary of State;" "in relation to Elections;" "locating the seat of Government of the State of Deseret;" "concerning the General Assembly;" "making the laws of the Territory of Utah in force in the State of Deseret;" "defining the Judicial Circuits of the State of Deseret and appointing the times and places of holding circuit courts;" "providing for publishing and distributing the laws enacted by the General Assembly;" "providing for appeals from the Probate and Circuit Courts;" "concerning the Supreme Court of the State of Deseret;" and "in relation to Circuit judges." These acts were to have been published and distributed, but although at least one copy of the governor's message survives, these acts do not, and the only account of them is a "journal of the legislature" consisting in newspaper summaries of its deliberations. Aside from these acts, provision was made for long and short terms, the members being divided accordingly; sixteen standing committees were named in each house; the memorial to Congress requesting admission was adopted; and state officers, as required by the constitution, were named as follows: senators to Congress, William H. Hooper and George Q. Cannon; secretary of state, Daniel H. Wells; treasurer, David O. Calder; auditor of public accounts, William Clayton; attorney general, Aurelius Miner; chief justice of the supreme court, Elias Smith, for the term of six years; associate justices, Zerubbabel Snow and Seth M. Blair, for the four year and two year terms respectively. Circuit judges were also named, these being Erastus Snow, John A. Ray, William I. Appleby, Jesse Haven and William Hyde.¹⁰⁵

The Mormons may well have entertained high hopes that on this occasion they would be successful in securing admission to the Union. As the Indians were somewhat troublesome, in late April Brigham Young telegraphed the War Department that no assistance would be needed, and offering the services of the Utah militia. This offer being endorsed by acting (territorial) governor Frank Fuller, on the 28th Young was telegraphed to raise a company of cavalry for ninety days' service to protect the property of the telegraph and overland mail companies between Forts Bridger and Laramie.¹⁰⁶ This action might have seemed an official endorsement of Deseret. Congress, however, was no more disposed than previously to listen to Mormon arguments.

All that had been done in the General Assembly had no effect without the sanctions of Congress. Yet on January 19, 1863, pursuant to the adjournment of the previous year, the legislature convened for a two-day session. Brigham Young's "governor's

¹⁰⁵*The Deseret News*, April 16, 23, 1862.

¹⁰⁶Bancroft, *History of Utah* p. 605; *The Deseret News*, April 30, 1862.

message" was read by Thomas Bullock. In this message Young said that Hooper and Cannon had proceeded to Washington and "presented to Congress the Constitution and accompanying memorials, and in connection with the Hon. John M. Bernhisel, Representative-elect and our Territorial Delegate, labored assiduously for the admission of Deseret into the family of States. But Congress, during its last session, was heavily burdened with duties pertaining to the conduct of the war then and still being prosecuted for the restoration of the Union, and, so far as I have been advised, took no action upon our petition."

Young further remarked approvingly upon the fact that on December 22 James M. Ashley of Ohio, chairman of the House Committee on Territories, had reported enabling acts for the admission of Nebraska, Colorado, Utah, and Nevada. "This action, clearly indicates a wise abandonment by the House of the former irrelevant question in regard to population and justly rests admission of a Territory upon its capability for self-government and its Republican form of Constitution." Then speaking directly to the Assembly, he remarked, ". . . It now devolves upon you to institute such further legislation, if any be needed, as may be requisite to enable either yourselves or your constitution to promptly improve upon such action as Congress may take in the premises, with the hope that ere long we also will be privileged with those Constitutional franchises pertaining to a State Government so justly our due, for which we have so long and so patiently waited and so loyally petitioned."¹⁰⁷

His message thus was scrupulously objective in tone. More privately, however, he spoke to the Assembly: "Many may not be able to tell why we are in this capacity. I do not think that you see this thing as it is. Our organization will be kept up. We may not do much at present in this capacity, yet what we have done or shall do will have its effect. Our Constitution which we sent to Washington has been closely scanned by the Members of Congress. . . . This body of men will give laws to the nations of the earth. We meet here in our second Annual Legislature, and I do not care whether you pass any laws this Session or not, but I do not wish you to lose one inch of ground you have gained in your organization, but hold fast to it, for this is the Kingdom of God, and we are the friends of God and you will find that much will grow out of this organization. But I will say without the inspirations and revelations of God, our acts are of no use. We are called the State Legislature, but when the time comes, we shall be called the Kingdom of God. Our government is going to pieces, and it will be like water that is spilt upon the ground that cannot be gathered. If we do not take care of ourselves, no one will take care of us. . . . I do not care whether you sit one day or not. But I do not

¹⁰⁷The *Deseret News*, January 21, 1863; reprinted in *Millennial Star*, Vol. 25, p. 156. A brief report of proceedings is found on p. 170 of the *Star*.

want you to lose any part of this Government which you have organized. For the time will come when we will give laws to the nations of the earth. Joseph Smith organized this government before, in Nauvoo, and he said if we did our duty, we should prevail over all our enemies. We should get all things ready, and when the time comes, we should let the water on to the wheel and start the machine in motion."¹⁰⁸

The legislature dissolved on January 20, presumably after re-enacting in behalf of Deseret the laws passed for the Territory of Utah. It reconvened on Saturday, January 23, 1864. Nothing is known concerning the 1864 session except the entry in the History of Brigham Young: "The Legislature of the state of Deseret met in the forenoon and sat until about sundown. The members met in joint session received the message of Gov. Young which was short but good and plain after which the assembly adjourned."¹⁰⁹

This persistence of the State of Deseret as a "ghost government" through six more years is extraordinary; certainly there is nothing in American history quite comparable. But the Mormon experience itself is hardly comparable with anything in American annals. Regarded with the superior perspective of seventy years, the "ghost government" may seem ridiculous, perhaps pitiful. But one must respect the integrity of belief, the dignity of faith, of these legislators and officers of "Deseret". And if nothing more were to emerge from this chapter of Mormon history, the total lack of physical rebellion or rebellious thinking should be manifest. The State of Deseret was to come into existence not by violent means but by social processes under the American Constitution; and it was to triumph in the end, and bear to the world the Constitution, when all other governments should have failed. The State of Deseret alone would hold to "true principles", whether of government or directly of God. It was the form of the people's desire, the crystallization of their dream—a remarkable ideal, one of the most notable examples of applied idealism on record.

In 1865 the General Assembly of the State of Deseret seems for the first time to have attracted the attention of hostile eyes. This year more details are available. On January 24 members of the Assembly convened in Great Salt Lake City.¹⁷⁰ Daniel Spen-

¹⁰⁸L. D. S. Journal History, January 19, 1863.

¹⁰⁹*Ibid.*, January 23, 1864. The Harrington journal cited, p. 39, mentions the session, but is no more informative. For lack of paper *The Deseret News* at this time suspended publication for several months, and the message therefore never was printed. A letter from George A. Smith to John F. Kinney, delegate to Congress written January 8, is illuminating with regard to the feelings of the day. "We [in the territorial legislature] sat down to draw a memorial, asking admission into the Union, and then we did not know what kind of a one we wanted and concluded to write to you. What is the prospect of admission. We do not expect much at the hands of the present administration but there is no telling the luck of a lousy calf." (Journal History for this date.)

¹⁷⁰Senators were Daniel Spencer, Wilford Woodruff, Albert Carrington, E. F. Sheets, Lorenzo Snow, E. T. Benson, L. E. Harrington, Aaron Johnson, Orson Hyde, Amasa Lyman, and George A. Smith. Two senators, J. W. Hess and Orson Pratt were absent. House members were John

cer was elected president of the Senate, and John Taylor speaker of the House. At noon "Governor Young and Lieut. Governor H. C. Kimball, with the Hon. George Q. Cannon, Private Secretary to the Governor, were received by the Assembly in Joint Session, the members rising and saluting them as they entered." After prayer by the chaplain, Cannon read the Governor's Message. This message largely was couched in general terms, praising Deseret and expressing hopes for the future. With respect to political developments, the message commented, "The Congress of the United States has not yet deemed it proper to admit Deseret into the family of States. In petitioning to be admitted into the Union as a Sovereign State, we were desirous of lightening the expenses of the general Government by bearing our own governmental expenses; this may yet be viewed as an object of sufficient importance to prompt Congress to look favorably upon our request. Indeed, it seems probable that the time is not far distant when we will be requested and solicited to assume the dignity and responsibilities of a sovereign State among our sister States in the Union. . . . Population . . . can no longer be held as an objection . . . for the Territory of Nevada, which has recently been released from her condition of Territorial dependence . . . did not have, at the time of her admission into the Union as a State, a population to exceed 40,000 souls." Again the legislature was advised to approve territorial legislation on behalf of the State of Deseret "in order that everything may be in readiness when Congress shall recognize our State organization, and to save confusion and trouble when the transition from a Territorial condition to that of a State shall have been fully accomplished."¹⁷

With respect to this session of the General Assembly, the governor of the Territory of Utah, James Duane Doty, wrote Secretary of State William H. Seward on January 28, 1865, as follows:

"The legislative Assembly of the Territory closed its session on the 20th inst, with apparent satisfaction to the members and to the public.

"There are three distinct governments in this Territory, the Church, the Military and the Civil. In the exercise of their several powers, collisions cannot always be avoided, but I am glad that I am enabled to state that during the past year none have occurred. If each could confine itself strictly to its duties, the proper authority of each would be undisputed, and no difficulty would occur.

"That the leaders of 'the church' under the Territorial law,

Taylor, Edwin D. Woolley, Albert P. Rockwood, John V. Long, Franklin D. Richards, John Van Cott, Albert K. Thurber, Joseph F. Johnson, David Cluff, jun., John Stoker, Lorin Farr, Jonathan C. Wright, Peter Maughan, William B. Preston, John Rowberry, Samuel Pitchforth, Reddick N. Allred, Thomas Callister, William J. Cox, Jacob Gates, William M. Wall, and Henry W. Brizzee.

¹⁷*The Salt Lake Daily Telegraph*, January 24, 1865. Stenhouse had started this paper the preceding summer. The Governor's Message was printed in *The Deseret News*, January 25, 1865, reprinted in the *Millennial Star*, Vol. 27, pp. 209-211.

have the appointment and control in fact through its members, of all the civil and military officers not appointed by the President of the United States. In addition, the same party, in 1861, formed an independent government, the 'State of Deseret', whose boundaries include Utah and portions of Idaho and Arizona. This form of government is preserved by annexing portions of all the State officers; the Legislature being composed of the same men who are elected to the Territorial Legislature, and who by a resolution re-enact the same laws of the 'State' which have been enacted for the Territory of Utah.

"For the information of the Department, I herewith transmit a copy of a paper containing the proceedings of the Governor and Legislature of this embryo State at a session held in this city on the 23rd of this month, by which it will be perceived that this fourth government is now fully inaugurated."¹⁷²

The irreverent *Daily Union Vedette*, which had ignored proceedings in 1864, also commented on the 1865 session, under the headline, "Brigham As Comedian", remarking in part, . . . "It has been our notion all along that the role of the big villain was his peculiar forte, but we were mistaken. His talents are of the versatile order which descends from the higher flights of tragedy and takes to comedy naturally as a duck does to water . . . he advocates the encouragement of 'native talent' and sets the example himself. His last appearance was as 'Governor' in that immensely funny affair, the farce entitled, 'The State of Deseret'. He took his role with that ridiculous gravity he knows so well how to assume when playing the fool and delivered his Message in a style superbly comic. The audience, who were also actors, were very select and appreciative . . . have become well-nigh perfect and, on this occasion, went through the farce with a serious decorum . . . appearing to lose themselves completely in their parts and evidently forgetful that it was not reality. . . . For a full description of the affair . . . we refer our readers to the 'Dead Sea Telegraph', that comic paper published down town . . ."¹⁷³

Again in 1866 the General Assembly convened, Heber C. Kimball being elected president of the Senate, and John Taylor speaker of the House. State officers elected were Daniel H. Wells, secretary of state; David O. Calder, treasurer; William Clayton, auditor of public accounts; Albert Carrington, attorney general; Lorenzo Snow, associate judge; Erastus Snow, judge of the First Circuit; Amasa M. Lyman of the Second; Seth M. Blair of the

¹⁷²Letter, Governor James Duane Doty to Secretary William H. Seward, from original in National Archives, Washington, D. C. Somewhat puzzling is the reference to portions of Arizona and Idaho. As declared in the constitution of 1862, the boundaries did not extend beyond Utah Territory. It may be conjectured whether "unofficial" representatives of Mormon settlements beyond the bounds of Utah Territory attended sessions of the "ghost legislature." It should also be noted that personnel of the legislative assembly of Utah and the General Assembly of Deseret was not always identical, though composed principally of the same men.

¹⁷³The *Daily Union Vedette*, January 26, 1865. Inaccuracies for the sake of the story will be observed in this account, a not uncommon practice in early Utah journalism.

Fourth, and William Hyde of the Fifth. George Q. Cannon then read Governor Young's message. This document briefly summarized the state of affairs in Deseret. In connection with the State itself, the message remarked, "Thus has a State been formed and brought into being, of which the Honorable Members of this Legislative Assembly are the true Representatives. It is true our State organization has not yet received the sanction of Congress and the General Government, yet it is considered best for us to maintain it intact, that whenever the propitious moment shall arrive, our State may be able, the more readily, to assume the robes of Sovereignty. Notwithstanding the seeming neglect on the part of Congress in hearkening to our petitions for admittance into the Union as a State, we are still progressing in the founding of a Commonwealth which must, ere long, win its way to place and power. . . . It is now about four years since the adoption by the people of our State and Constitution, and formation of our State Government, yet Congress has not chosen to act upon our memorial . . . and I regret to add, that indications do not appear favorable for such action during the present Session of Congress. . . . The question as to how long it will be proper for us to submit to thus have our constitutional rights and franchises withheld from us, is an important one; but we leave its solution to Him who rules all things. . . . Utah has been held off at arm's length, and has grudgingly had doled out to her the scantiest pittance; but, after all, it is not the empty forms and enactments of law, muster-rolls, nor worm-eaten parchments that constitute the State, it is the living people—an intelligent, industrious, educated, enterprising people which constitute a Government, and are, moreover, the source of political power in governments, based like ours professes to be, upon democratic principles. . . . Still claiming our rights, and hoping Congress will soon lend a more favorable ear to our wishes, we will continue the course we have pursued . . ."¹⁷⁴

This time the *Vedette* abandoned the comic vein for roars of rage. ". . . What, most meek and gentle Governor of Deseret, during those four memorable years, has been your attitude, and the attitude of the other Mormon Leaders—your subservient hirelings, towards the parent government? Did you sympathize with her in her deep and terrible sorrow? Did you, by never so slight an effort, aid her in her mighty struggle? Did not you and the other leaders, persist in a course of infinitely viler and more odious treason, than that of the leaders of the great rebellion? As far as you dared. . . ? What has been the burden of your discourses, in Tabernacle and Ward house meetings, but the vilest abuse of the troops, and of the Gentiles, and the most insolent treason against the Government? . . . Did you not glory in the an-

¹⁷⁴*Millennial Star*, Vol. 28, pp. 156, 161-163. The *Star* reprints from the *Daily Telegraph*, of which no file for this date seems to have survived. The *Deseret News* was again suffering from lack of paper, and did not publish over this period.

ticipated ruin of the republic, the wreck of the hopes of all peoples, doing all that traitors, with the superadded infamy of cowardice, cleaving to them, could do to embarrass the Government, and to secure the accomplishment of their own impious predictions? And now you shine about the ingratitude of a Government, that if your prayers had been answered, and the deep purposes of your vengeful heart been realized, would long ago, have been shattered and destroyed! . . . People of Utah, do you wish to know why this Territory is not received as a State? Why you have as yet no titles to your lands? Why as a people you are a by-word and a reproach? It is because serf-like you allow yourselves to be tyrannized over by your designing leaders, who for their own selfish aggrandizement, keep you for years in the humiliating position. Discard the polluted doctrine of polygamy, and the degrading practices it enjoins with all the high sanctions of religion. Submit to the wise and equitable laws of Congress, wash yourselves in the pure waters of obedience, and Congress will welcome you as a State into the Union—but never until then, the threats, maledictions and prophecy of your pretended Governor, revelator and prophet to the contrary notwithstanding.¹⁷⁵

The sixth session of the General Assembly of the State of Deseret commenced January 21, 1867. The governor's political remarks, following the usual economic summary of conditions in Utah, are of more than ordinary interest. Since first establishment of the State of Deseret, and particularly in the past ten years, Young said, "we have made repeated applications for admission into the Union as a State; but, up to the present time, no action has been taken upon our petitions. So far from granting to us this right—to which by every principle of justice we are fully entitled—there seems to be a disposition manifested by some few members of our Federal Legislature to take from us the rights we already enjoy. I allude to a bill [the Wade bill of 1866] which was introduced to Congress at the last session, and which has again been revived during this present session. The passage of this bill would virtually disfranchise our citizens, and annul the principal features of our Organic Act. Indeed, there are a few who advocate the entire repeal of the Organic Act of the Territory, with the hope to deprive us of every form of civil government. But those who urge these plans appear to be ignorant of the fact that before Congress had passed the Organic Act, and given us a Territorial government, the provisional government of the State of Deseret was in active operation, and an acknowledged form of government: Should such measure prevail, the alternative would

¹⁷⁵The *Daily Union Vedette*, January 25 1865. For other comment of this character see the *Vedette* for February 3, where a letter from "Emigrant" is published, and for February 28, where a speech in Philadelphia by Judge Thomas J. Drake is reported. The rhetoric of the period is well illustrated in the *Vedette* editorial and in the Drake speech. The Mormons and the anti-Mormons virtually spoke two different languages, neither willing to understand the other.

therefore be left us of falling back upon our provisional government."¹⁷⁶

Upon dissolution of the joint session the Senate retired to its chamber, where various portions of the governor's message were referred to committees, while the House passed "An Act to amend the Constitution of the State of Deseret, an Act legalizing the Laws and Resolutions of the Territorial Legislative Assembly; and an Act to provide for the election of a Representative to Congress." The following day a memorial to Congress was adopted and the several acts were passed. John M. Bernhisel and George Q. Cannon were elected senators to Congress. The only new member of the Assembly this year was Hector Haight, from Davis and Morgan Counties, "elected to fill the unexpired term of Hon. Franklin D. Richards, absent from the State."¹⁷⁷ On January 26 Daniel H. Wells, as secretary of state, published in *The Deseret News* a notice of election to be held on February 4 "at the usual places of holding elections" for one representative to Congress for the State of Deseret, and "for" or "against" the constitution as proposed to be amended. The election passed quietly enough. William H. Hooper was elected representative.¹⁷⁸

The seventh annual session of the General Assembly was held February 24, 1868, the two houses meeting in the Council House and then adjourning to the City Hall. "After the usual organizations in the Senate and House the legislators assembled in Joint Session and shortly after 11 o'clock, his Excellency Gov. Brigham Young, accompanied by Lieutenant Gov. Heber C. Kimball and

¹⁷⁶*The Deseret News*, January 23, 1867. The message was also printed in the *Daily Telegraph* of this date and the *Millennial Star*, Vol. 29, pp. 161-164. The passage in connection with "home government" attracted some attention. S. W. Richards wrote Franklin D. Richards on January 22, "... The message of Governor B. Young to the Assembly of the 'State' on the 21st inst., indicates very plainly what may be the result of oppressive legislation by Congress towards this people. The virtue of 'Home Government' has so far commended itself to this people, in the history of their past experience, that a return to it would be hailed by every lover of civil and religious liberty in the community. The Lord hasten the day. . ." (*Millennial Star*, Vol. 29 p. 155.) The *Vedette* also commented: "The 'Governor' very decidedly and pertinently gives Congress to understand that he don't intend to put up with any nonsense. We recollect that in 1860 South Carolina in a somewhat similar manner proclaimed that she would not stand the election of a Republican President without a fuss—and she didn't. Very much like Utah, she proposed in a certain contingency to 'resume her sovereign rights as a free and independent state.' Unfortunately, she got very sick of it after a time, and is now repenting her rashness in sack cloth and ashes. Such hard fate cannot, however, come to Utah. But Senator Wade and 'some few members of our Federal Legislature' had better listen and heed the warning voice of the Governor of the State of Deseret." (*The Daily Union Vedette*, January 24, 1867.) Exactly what Brigham Young may have had in mind is conjectural. In *The Deseret News* of February 6, 1867, is an editorial, "To Be Or Not To Be," discussing reasons why Utah should be admitted, and commenting on the plural marriage issue, which of course, being so basic a shock to American mores, was the reason all these efforts to secure admission came to nothing.

¹⁷⁷*The Deseret News*, January 23, 1867; *The Salt Lake Daily Telegraph*, January 23, 1867.

¹⁷⁸An abstract of the special election for the State of Deseret on February 4 has been found in Volume C of the County Court Minutes of Juab County. From Nephi, Clover Creek, and Chicken Creek precincts William H. Hooper received 241 votes as delegate to Congress (the Territorial election) and 241 votes as representative to Congress (the State of Deseret election). For the constitution as amended, 237 votes were cast for, and four against. Two adverse votes were cast in Nephi precinct, and two in Clover Creek precinct. It is noteworthy that Daniel Wells' notice of January 26 requested the latter returns be sent him, whereas the former returns were to be sent to Amos Reed, Secretary of the Territory of Utah.

The amendments to the constitution were designed to recognize boundary alterations and changes in national suffrage consequent upon congressional enactments and amendments to the United States Constitution. See *The Deseret News* January 29, 1867.

Hon. Geo. Q. Cannon, entered the large hall and were received by the assembly rising and saluting the Governor. Hon. Geo. Q. Cannon his Excellency's private Secretary read the Governor's Message. An act making the laws passed during the Seventh [Seventeenth] Annual Session of the Legislative Assembly of the Territory of Utah in force in the State of Deseret; a memorial to Congress for the admission of Deseret into the Union as a State; a resolution of thanks to the Hon. W. H. Hooper; and a resolution to provide for the convening of the next annual session of the General Assembly passed both Houses. Geo. Q. Cannon was elected Public Printer and a thousand copies of the message were ordered to be published in pamphlet form and also in the two daily papers. Gov. Young and Lieut. Gov. Kimball made short and interesting addresses and by noon the Joint Session was dissolved."¹⁷⁰ The session had lasted hardly two hours.

The governor's message among other things noted the conclusion of the Indian difficulties [the Black Hawk war], and the approach of the transcontinental railroad. It was hoped that the railroad would pass to the south of Salt Lake City, but suggested that should the northern route be selected, a branch line could be constructed with very little expense and trouble from Salt Lake City. In connection with the memorial of 1867, and the amended constitution, it was noted that the House had referred the documents to the Committee on Territories, from which they had not yet emerged. "It would be gratefully received by our people, if Congress would act favorably upon the many petitions which you have sent to them for our admission as a state, and, laying aside all narrowness of opinion and bigotry, do a simple act of justice to a brave and industrious people—give them the rights of freemen, suffrage and representation in the councils of the nation. But if passion and prejudice continue to rage and rule the house, we will still continue to plead for our rights, feeling assured that in due time these antipathies will pass away, and we shall receive those rights to which we are so clearly entitled. With this hope we can

¹⁷⁰*The Salt Lake Daily Telegraph*, February 24, 1868. Members of the Assembly this year were as follows: Senators: Wilford Woodruff (Salt Lake County); Albert Carrington (Summit); Joseph A. Young and Elijah F. Sheets (Green River and Tooele); Hector C. Haight (Davis and Morgan); Lorenzo Snow (Weber and Box Elder); George A. Smith (Beaver and Iron); Ezra T. Benson (Cache and Richland); Leonard E. Harrington and Aaron Johnson (Utah and Wasatch); Erastus Snow (Washington and Kane); Orson Hyde (Sanpete, Piute, and Sevier). Representatives were John Taylor, A. P. Rockwood, Orson Pratt, sen., John Van Cott, Enoch Reese, Joseph F. Smith (Salt Lake); Albert K. Thurber, David Evans, and W. B. Pace (Utah); William R. Smith and Christopher Layton (Davis and Morgan); Lorin Farr and Chauncey W. West (Weber); Jonathan C. Wright (Box Elder); Peter Maughan and Charles C. Rich (Cache and Richland); John Rowberry (Tooele); Jonathan Midgley (Juab); R. N. Allred and George Peacock* (Sanpete and Sevier); F. M. Lyman (Millard); James H. Rollins* (Beaver and Piute); Silas Smith* (Iron); Jacob Gates (Washington and Kane); Thomas H. Giles (Wasatch); and William W. Cluff (Summit and Green River). Those men whose names are marked with an asterisk were not present. George A. Smith was elected president of the Senate, and John Taylor speaker of the House. This General Assembly was identical in personnel with the territorial legislature, even to the absentees. It is to be noted that Woodruff, G. A. Smith, Benson, Hyde, the Snows, Taylor, Pratt, and Rich were members of the Quorum of the Twelve, while Joseph F. Smith and Lyman were to become Apostles at a later date.

afford to wait, with calm resignation, the providences of the Almighty, who doeth all things well, for assuredly He will overrule the wrath of the wicked and make her anger praise him."¹⁸⁰

The eighth session of the General Assembly was again held at the City Hall in Salt Lake City, on February 22. "Members elect" were qualified by "Justice [Jeter] Clinton," but no data on their names are available. The governor's message was delivered extemporaneously by Brigham Young. After an eulogy of Lieutenant Governor Heber C. Kimball, who died June 22, 1868, he proceeded to questions that may have occupied the attention of many minds. "We have met in the capacity of a State Legislature with a view to preserve our organization, and with an eye to the time when, in the wisdom of God, He will move upon the minds of Senators and Members of Congress to give us our legal, national and legitimate rights. We wait with patience for this to be done. Perhaps to some it will seem unnecessary to keep up this organization; but it is that we may preserve our identity as a part of the nation that we assemble annually in this capacity. If the machinery is kept in order, when the time shall come for the water to be turned upon it there will be no difficulty about starting it. It is not so much to enact laws and to sit in a Legislative capacity that we now meet, as to recognize our rights, and, in doing so, we do no more than others have done, and no more than is our right to do. If we, who live in this country, were disposed to meet in this capacity 365 days in the year, it would concern nobody but ourselves, except meddlers and those who wish to infringe upon the rights of their neighbors. In a republican government like ours it is our right to meet as we do today. We have the undoubted right of meeting together and consulting upon those points of governmental affairs that pertain to our future peace, and to gather the necessary information to enable us to proceed further in the duties of life. Whether, in the providences of God, we shall be admitted as a State or not we leave with Him. He will do as He pleases; the hearts of all living are in His hands, and whatever condition He permits us to live in we shall accept and conform to. . . . We trust in Him. We are His servants; we

¹⁸⁰The Salt Lake Daily Telegraph, February 25, 1868. Also printed in the *Millennial Star*, Vol. 30, pp. 209-211. The same issue of the *Star* (pp. 217-220) contains an editorial, presumably by Franklin D. Richards, on the subject, "Human Governments a Failure" which says in part, "We call the attention of our readers to the Message of the Governor of the State of Deseret . . . and ask them to view the condition of affairs in our mountain home in juxtaposition with the state of things described by the *Economist* in the article on the 'Bankruptcy of Nations.' Our mountain state is, as far as we know, the only solvent State in the world. Its expenditure never exceeds its income; it always has a balance in its treasury. We have no pauperism there. Crime is handled with an iron grasp whenever it puts in an appearance. The rising generation are educated, and notwithstanding the natural disadvantages of our isolated position, and the vast and varied obstacles which have had to be overcome, the State of Deseret, or, as it is now entitled, the Territory of Utah, contains the most prosperous, contented, and happy community upon the face of the globe. That is because its rulers and legislators govern and legislate under divine authority and with divine assistance. God is not thrust out from the affairs of men, but his aid is sought and his word respected. They govern and direct the people for the people's good. Place brings no emoluments, office no exclusive privilege. The interests of the whole community, and not private ends and personal ambition, are the objects of their legislation. Their laws are simple and their statutes few. . . ."

are His friends; we are also the friends of humanity. However much we may be misunderstood and misrepresented, this knowledge gives us satisfaction and comfort.

"Our experience has demonstrated the simple fact that, in enacting laws, the fewer they are, when well executed, the better for the people. This is a fault which our Legislators have not fallen into; they have not made a multitude of laws. . . . In this connection I recommend that you adopt and sanction the laws which have been enacted by the Legislative Assembly of the Territory of Utah, that the same may be valid and have full force in the State of Deseret. . . . That we have shown our capacity for self-government, and are fully entitled to an entrance in the great sisterhood of States which forms this Union, is evident to all unprejudiced people who are familiar with our history. . . . In the short time we have been here it can be said with truth of us that we have advanced faster in establishing true civilization, in making public and private improvements, and in adding to the national wealth than any other people, surrounded by the same circumstances, of whom we have any knowledge. . . . Gentlemen, in coming together today as the Representatives of the State of Deseret we have the proud satisfaction of knowing that we represent a people capable in every respect of governing and controlling [sic] ourselves . . ."¹⁸¹

The House and the Senate then passed "An act providing for publishing and distributing the laws and journals of the General Assembly";¹⁸² "A resolution to provide for convening the next annual session of the General Assembly"; "An act making the laws passed during the eighteenth session of the Legislative Assembly of the Territory of Utah in force in the State of Deseret"; and "A resolution of condolence on the death of the Lieutenant Governor of the State of Deseret, Heber C. Kimball." Brigham Young, as governor, immediately approved these acts, whereupon the two houses dissolved.¹⁸³

The ninth and final session of this extraordinary "ghost government" of Deseret occurred on February 21, 1870, in the City Hall in Salt Lake City. Orson Hyde was elected president of the Senate, and Orson Pratt speaker of the House. After the Assembly met in joint session "Gov. Young, Lieut. Gov. G. A. Smith and Hon. D. H. Wells, Secretary of State", were introduced. The short governor's message was then read by Patrick Lynch, secretary of the Senate.

¹⁸¹*The Salt Lake Daily Telegraph*, February 24 1869. Also printed in the *Millennial Star*, Vol. 31, pp. 251-253.

¹⁸²If the various laws and journals of the General Assembly for this, as for previous years, actually were printed, no copies are known to have survived. Only the Governor's Message of 1862 has been located, aside from newspaper reports. There is also some question as to who printed the documents, or who financed the printing, since the General Assembly could have no official funds of its own. Presumably such financing was by individuals or by the church.

¹⁸³*The Salt Lake Daily Telegraph*, February 22, 1869.

As usual, comment was made on economic affairs in Deseret, with more especial reference to the transcontinental railroad, completed the preceding May at Promontory. Proceeding to a familiar theme, the message continued, "I presume that you will adopt and sanction the laws which have been enacted by the Legislative Assembly of the Territory of Utah, that the same may be valid and of full force in the State of Deseret. And in connection with this subject I would here remark, that during the past year our citizens assembled in mass meeting and respectfully but earnestly petitioned Congress for those rights which by the Constitution of our country are legitimately ours. What action Congress may have taken on our petition we have not yet learned. We wait in patience, full well assured that the Great Controller of human affairs will work all things for our good, and whether the Honorable Senators and members of the House listen to our petition or turn a deaf ear thereto, it will in either case tend, by the mercies of Heaven, to our benefit and the development of the purposes of God."¹⁸⁴

The precise manner in which the State of Deseret of 1862-1870 finally disappeared is not clear. It is probable, however, that its continuance was contemplated by the General Assembly of 1870. No statement survives to indicate whether the 1870 laws of the Territory of Utah were enacted by the Assembly, but probably this is the case. Those laws provided that, according to the desire of Congress, the territorial legislature thereafter should meet biennially rather than annually. Technically the General Assembly need not have been affected by this change, and an 1871 session could have been held, but in practice no session of the Assembly could be held, for the members of the territorial legislature were not in Salt Lake City and at hand for a session of the General Assembly. No record can be found of any meeting in 1871. Brigham Young spent the greater part of that winter in St. George. Perhaps it had been expected that the General Assembly of the State of Deseret would resume its sessions in 1872. But a new constitutional convention in 1872 swept away the whole structure of the old State of Deseret. Possibly the ideal had worn a little thin; doubtless the recession of the Civil War, with the new belief among the Mormons that the prophecy of Joseph Smith was not yet to be wholly fulfilled, more strongly turned the people of Utah toward the federal government. In any event, the history of the "ghost government of Deseret" was closed.

The constitutional convention of 1872 met in Salt Lake City on February 20. That a strong current was running against Deseret was evidenced on the first day, in the debate over the constitutions which should be used as a model. Various proposals were

¹⁸⁴*The Deseret Evening News*, February 21, 1870.

made to follow the 1870 constitution of Illinois, the constitution of Nevada, and a constitution embodying the best features of all existing constitutions. Some, like Lorin Farr, argued the retention of the Deseret constitution of 1862 which, he said, "had been acknowledged by the congressional committee to whom it had been submitted as one of the best ever framed." On the other hand Colonel D. E. Buel felt that a modern constitution should be adopted, that Utah should be taken as she was in 1872, not as she was in 1862. Thomas Fitch, who had not seen the constitution of Deseret, "had no doubt it was a good one; yet it had the odor of defeat about it." Finally, the matter being put to vote, the constitution of Nevada was adopted as a model. Nevada had obtained statehood, and it was perhaps thought that Nevada, being also a western state, had special affinity for Utah.¹⁸⁵

On the third day Deseret underwent even more serious an attack. In considering the proper name for the proposed new state, it was moved by Judge Enos D. Hoge that "Deseret" be stricken out in favor of "Utah". This motion at once found some favor "because the name Deseret might be made a basis of prejudice by persons opposed to the State movement." Deseret quickly found defenders, who argued that the name meant "honey bee", was dear by association, and applicable to the people as well as being much more suitable a name because it was easily spelled correctly by any person, while Utah might be spelled in twenty ways. On the score of antiquity Deseret had preference because it "ran back to the building of the tower of Babel". This final argument was not entirely convincing, however, for at once objection was brought against Deseret because it was ancient, as well as because the name might be "a matter of objection by enemies of a State Government". Now Deseret found a horde of defenders. Deseret "had been long used and was much liked by the people"; it "was held to mean a honey bee, while Utah referred to a dirty, thieving, insect-infested, grasshopper-eating tribe of Indians. It was also more euphonious than Utah." Deseret "was dear . . . to the people of Utah [and] popular clamor should [not] be adhered to; Deseret was a good name; it meant something good." General E. M. Barnum, president of the convention, "admitted the euphony of Deseret, but while he was willing to accept Deseret, should it be adopted a howl would be raised on the streets of Salt Lake and be carried over the country that the Mormons controlled the convention, because that word had been first used by the Mormons. While he liked the name of Deseret as a simple combination of letters—which many looked upon as a corruption of the word desert, and having reference to the 'Great American Desert'—yet he did think, with the old adage 'give a dog a bad name,' that the low, petty, contemptible prejudice against that word, should

¹⁸⁵*Ibid.*, February 20, 1872.

be an obstacle in the way of accomplishing the objects of the convention in securing a state. He hoped the name of Utah would be substituted."

Another delegate was partial to Deseret. "One reason why he wished Utah could be blotted from history was because of the many unfounded slanders perpetrated concerning it. Yet the name of Utah was on all local maps, in public archives, and on public records. These were strong reasons for retaining it. After Deseret he would prefer Argenta, but in view of the circumstances he would vote for Utah." Still another delegate now said that the laws passed by the provisional State of Deseret, adopted by the Territory, were submitted to Congress, yet, if he remembered right, only one of those laws was rejected or repealed. This did not indicate prejudice against the name of Deseret. The prejudice against the name, he thought, was not so strong as that against the people." Reply was made that Utah was more satisfactory "because of the prejudice existing against Deseret, on account of its supposed sectionality, while Utah was considered more cosmopolitan. [The people] were proud of the word Deseret and of their industry which it symbolized, yet they could be just as industrious, worthy, and reputable under the name of Utah." After some further debate, in which it was argued that a prejudice did exist against Deseret, and why should not this prejudice be made innocuous, when no principle would be involved or sacrificed, the motion to change the name of Deseret to Utah was put to the convention. It was lost.¹⁰⁰ With the constitution of 1872 "Deseret" went for the last time to Congress.

Both the constitution of 1872 and the circumstances attendant on its drafting are significant for the period. The constitution represented a reaction both of Mormons and non-Mormons to the excesses of federal office-holders. Non-Mormons for the first time participated in the constitutional convention, and thus the 1872 venture was even more distinct a break with the previous effort toward statehood, which in practice as well as in ideology was essentially Mormon.

Particularly significant about this constitution was the "Ordinance" which prefaced the document, for it was provided that "such terms, if any, as may be prescribed by Congress as a condition of the admission of the said State into the Union, shall, if ratified by a majority vote of the people thereof . . . be embraced within, and constitute a part of, this ordinance." Concretely, this proposal meant that Congress was invited to add some prohibitory clause concerning polygamy. The idea was that of John Fitch, non-Mormon delegate, who had pointed out a similar procedure in the admission of Missouri into the Union in 1820-21. The constitution itself was a much more complicated document than those

¹⁰⁰*Ibid.* February 23, 1872.

of previous years, and the constitutions of 1882 and 1887 were largely based upon it.¹⁸⁷

The memorial to Congress, adopted by the Convention on March 2, and dispatched to Washington with George Q. Cannon, Thomas Fitch, and Frank Fuller, delegates, set forth its principal argument in the insufficiency of a territorial government for Utah needs, pointing out that every important civil action was liable to be appealed to the U. S. Supreme Court, where its final decision might be delayed for years, while every act of the legislature escaping the absolute veto of the governor was subject to the supervisory legislation of Congress. Further, because the legislature of the Territory of Utah had been denied power to create or organize courts of original jurisdiction, and because the courts provided by Congress were insufficient, it was declared, "persons accused of crime are denied bail and refused trial, while cases rapidly accumulate upon the civil calendar and litigants are thereby practically denied justice." It was this system of government, not those who administered the system, the memorial contended, which should be censured.

A long-standing Utah contention in regard to the territorial system of government was restated for congressional attention. "A territorial or colonial system, under which a government is provided by a remote power and without the consent of the governed, is inherently oppressive and anti-republican. The theory of government which provides executive and judicial officers having no responsibility to the people they are called to rule, and to whom their acts are known, but to a distant and imperfectly informed authority, is admittedly a false one. The officer assigned to a Territory, bearing no introduction save his commission from the general government, finds no interest in common with the people to whom he presents himself. His past life may be and usually is a sealed book to each member of the community, toward whom he is, by virtue of his commission, authorized to assume the most delicate and important relations. With no confidence inspired by long acquaintance, the stranger becomes the arbiter of the destinies of a whole community. As governor or judge, he holds the lives and property of a people—united to him by no ties of kindred

¹⁸⁷*Constitution of the State of Deseret*, Salt Lake City, 1872, 21 pp. The document is printed in *The Deseret Evening News*, March 2, 1872. No detailed comment will be attempted here, except to name the seventeen articles of the constitution, which were as follows: (I) Declaration of rights; (II) Right of Suffrage; (III) Distribution of powers; (IV) Legislative department; (V) Executive department; (VI) Judicial department; (VII) Impeachment and removal from office; (VIII) Municipal and other corporations; (IX) Finance and state debt; (X) Taxation; (XI) Education; (XII) Militia; (XIII) Public Institutions; (XIV) Boundary; (XV) Miscellaneous Provisions; (XVI) Amendments; (XVII) Schedule. In connection with the boundary, which was identical with that of the present State of Utah, it is of interest that the constitution provided that "whenever Congress shall authorize the addition to the Territory of Utah or State of Deseret of any portion of the Territory on the northerly or southerly borders . . . the same shall thereupon be embraced within and become a part of this State." Only in 1872 was this provision made; reference was to southern Idaho, more especially Cache Valley and Bear Lake Valley, and to the "Arizona strip" north of the Colorado River, the settlers of which were culturally akin to Utah rather than to the territories of Idaho and Arizona.

or neighborhood—in his hands. Even if selected from among the people, he still looks to the parent government for his compensation; and relies for his tenure of office upon influence far removed from the scene of his labor rather than upon his own conduct; he is thus naturally led to give small consideration to the wishes or necessities of those who are the sole sufferers under his follies and mistakes.

"It is plain that a system which practically denies to the citizen the privilege of enacting and administering those domestic laws which are necessary for the safety and progress of the community; which deprives him alike of representation at Washington and local sovereignty; which fails to furnish him with adequate judicial facilities, and subjects him to tedious and expensive delays in the final arbitrament of his rights, is a system most antagonistic to the spirit of representative republican government, and most injurious to the interests of progress."¹⁸⁸

This argument was reasoned and forceful, but, unfortunately for Deseret, no rational argument had any force beside the national conviction that polygamy was inimical to American society. While polygamy endured, statehood was impossible. Once more Congress refused to act upon the petition from Utah.

A decade passed before the people of Utah tried again. The influence of Deseret was fading fast, particularly as non-Mormons were taking greater interest in securing a state government. The convention of 1872 had been the first in which non-Mormons were represented, and in 1882 their influence was strong. Even among the Mormons, however, there was little argument for Deseret. This convention began its work on April 10, and Utah was the name designated for the proposed state. On April 26 some argument ensued about a proposition to change the name to Deseret. These arguments were largely a repetition of those of 1872, Charles W. Penrose once more saying that Utah was derived from "a dirty, thieving band of Indians", while Deseret sounded euphonious and signified a honey bee, thus being suggestive of industry, and redolent of blossoms and flowers; and others speaking of the early love they bore the name. But the Utah sentiment now was overwhelming. The region was declared to be known throughout the world as Utah, and expenses would be great in making the necessary changes for legal purposes; and others remarked that "we started out with the name of Deseret for our original organization; Congress had refused us that name, and it seems that we want them to take water;" that "we tried three times to get admission as a State under the name of Deseret and failed. . . Deseret may be a sweet name but it has a sting;" and that "people can honor a name though a name can do no honor to a people." The motion to change the name from Utah to Deseret, being put

¹⁸⁸*Constitution of the State of Deseret, 1872, as cited.*

to vote, was lost.¹⁸⁹ The constitution was approved on April 27, 1882, by Joseph F. Smith, president of the convention.

The constitution of 1882, passed thirty-six days after the Edmunds Bill of March 22, 1882, was the last to declare the irrelevance of the polygamy issue. An editorial in *The Deseret Evening News* on April 11 discussed this issue, declaring that plural marriage was only a pretext in a religious crusade against the Mormons, and going on to say, "The only plea for excluding Utah is based upon a transparent error. The territory as a political organization does not recognize the polygamic family relation. Polygamy is no part of any system under legislative supervision. It is not provided for in our local laws. What there is of plural marriage among the Latter-day Saints is contracted and regulated solely by ecclesiastical ordinances and rules. The admission of Utah as a State, then, would involve no recognition of polygamy on the part of Congress or of the nation. It would not enter into State politics and therefore need not figure in national politics. The State would not set up any of the institutions of the 'Mormon' Church as part of its policy or social system, nor foster one church more than another. The beliefs and domestic arrangements of people living in a State of the Union have no bearing upon the national government, and should not enter into the question of State connection with the Federal Union. It is now only made a pretext for keeping Utah a dumping ground for refuse office-hunters, and for depriving her people of political influence, their union and consequent force in public affairs being dreaded in national politics."¹⁹⁰

But with Congress insistently more determined to crush polygamy, the 1882 attempt to secure statehood was foredoomed to failure. Congress was in no wise minded to give up any part of its power over the Utah region with the polygamy question still unresolved. And on March 3, 1887, the drastic Edmunds-Tucker Act became law. This Act might well have been proved unconstitutional had a suitable way been found of expressing the issue to the Supreme Court, but it was never taken to the highest court, and served its purpose of completely crushing Mormon resistance to the congressional determination to stamp out polygamy.

Bowing to the approaching storm, the constitution which was approved on July 7, 1887, by the sixth constitutional convention, provided in section 12 of Article XV (Miscellaneous Provisions) for action against polygamy. "Bigamy and polygamy being considered incompatible with a republican form of government each of them are hereby forbidden and declared a misdemeanor. Any person who shall violate this section shall, on conviction thereof, be punished by a fine of not more than one thousand dollars and

¹⁸⁹*The Deseret Evening News* April 26, 1882.

¹⁹⁰*Ibid.*, April 11, 1882.

imprisonment for a term of not less than six months nor more than three years, in the discretion of the court. This section shall be construed as operative without the aid of legislation, and the offenses prohibited by this section shall not be barred by any statute of limitation within three years after the commission of the offense; nor shall the power of pardon extend thereto until such pardon shall be approved by the President of the United States."¹⁹¹

Congress, however, was well satisfied with the Edmunds-Tucker Act, which was to prove thoroughly disruptive in Utah life. The effort toward obtaining statehood failed.

The final attempt to make Utah into a state followed upon the issuance of the "manifesto" of 1890, which disavowed the practice of polygamy as a fundamental tenet of church doctrine. Congress in 1894 passed an enabling act requiring the prohibition of "polygamous or plural marriage", and when the constitutional convention which met in Salt Lake City on March 4, 1895, completed its work on May 8, the way had been opened for statehood. The constitution was ratified by the people November 5, 1895, and on January 4, 1896, President Grover Cleveland issued a proclamation announcing the admission of Utah as a state. Two days later the state officers were inaugurated in Salt Lake City.¹⁹²

Little mention of "Deseret" survives after 1882, but it would be interesting to know what passed in the minds of many of those who had fought for Deseret on the day in 1896 that Utah was admitted to the Union. Deseret stood as the moving symbol of forty-five years of struggle for admission. It can only be conjectured how the problems of Utah relations with the nation might have been resolved had Congress approved Deseret in 1850. Had Deseret been spared the bitter attacks which between 1850 and 1890 so powerfully shaped the Mormons as a distinct and separate group, the problem of Utah "treason", like that of polygamy, might have found a more quiet solution. If polygamy, which became the heart of the issue between the Mormons and the United States Government, was essentially incompatible with American mores, the ordinary social pressures of American life would have sufficed in its disintegration. The ways of violence may not have been the best ways. One may well wonder what course the history of the West would have taken had Deseret, like California, been admitted to the Union in 1850.

¹⁹¹"Constitution of Utah" in *The Deseret Evening News*, July 8, 1887.

¹⁹²Roberts, *op. cit.*, Vol. 6, pp. 323-338.

CONSTITUTION OF THE STATE OF DESERET

PREAMBLE

Whereas a large number of Citizens of the United States, before and since the Treaty of Peace with the Republic of Mexico, emigrated to, and settled in that portion of the Territory of the United States, lying west of the Rocky Mountains, and in the Great Interior Basin of Upper California; and

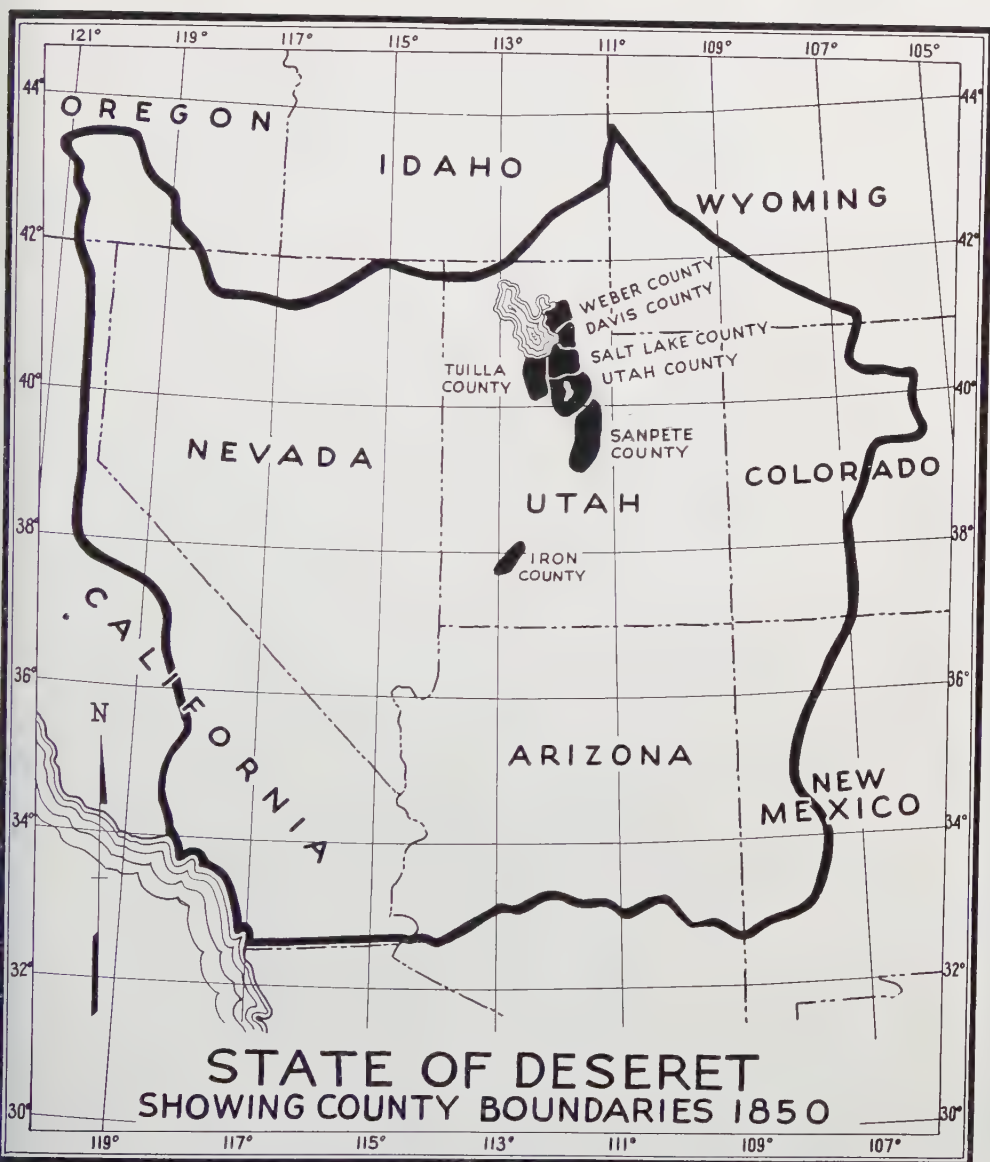
Whereas, by reason of said treaty, all civil organization, originating from the Republic of Mexico became abrogated; and

Whereas, the Congress of the United States has failed to provide a form of Civil Government for the Territory so acquired, or any portion thereof; and

Whereas, Civil Government and Laws are necessary, for the security, peace and prosperity of Society; and

Whereas, it is a fundamental principle in all Republican Governments, that all political power is inherent in the People; and Governments instituted for their protection, security and benefit, should emanate from the same:

Therefore, your Committee beg leave to recommend the adoption of the following CONSTITUTION, until the Congress of the United States shall otherwise provide for the Government of the Territory hereinafter named and described, by admitting us into the Union. WE THE PEOPLE, Grateful to the SUPREME BEING for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of these blessings, DO ORDAIN, AND ESTABLISH A FREE AND INDEPENDENT GOVERNMENT, by the name of the STATE OF DESERET; including all the Territory of the United States, within the following boundaries, to wit: Commencing at 33°, North Latitude where it crosses the 108°, Longitude, west of Greenwich; thence running South and West to the Northern boundary of Mexico, thence West to, and down the Main Channel of the Gila River, (or the Northern line of Mexico,) and on the Northern boundary of Lower California to the Pacific Ocean; thence along the Coast North Westerly to the 118°, 30' of west Longitude; Thence North to where said line intersects the dividing ridge of the Sierra Nevada Mountains; Thence North along the Summit of the Sierra Nevada Mountains to the dividing range of the Mountains, that separate the Waters flowing into the Columbia River, from the Waters running into the Great Basin; thence Easterly along the dividing range of Mountains that separate said waters flowing into the Columbia



Counties existing in Deseret at the end of 1850 are blacked in on the map. The first counties were restricted to inhabited valleys. Iron County between January and December 1850 was called Little Salt Lake County. Davis County was created in October, 1850, out of Weber and Great Salt Lake Counties; the latter originally extended almost to the northern Davis County boundary.

river on the North, from the waters flowing into the Great Basin on the South, to the summit of the Wind River chain of mountains; thence South East and South by the dividing range of Mountains that separate the waters flowing into the Gulf of Mexico, from the waters flowing into the Gulf of California, to the place of BEGINNING; as set forth in a map drawn by Charles Preuss, and published by order of the Senate of the United States, in 1848.

ARTICLE 1

The powers of Government of the State of Deseret shall be divided into three distinct departments; Viz, Legislative, Executive, and Judiciary.

ARTICLE 2. OF THE LEGISLATIVE

Sec. 1. The Legislative authority of this State, shall be vested in a General Assembly, consisting of a Senate and House of Representatives; both to be elected by the people.

Sec. 2. The session of the General Assembly, shall be annual; and the first Session be held on the first Monday of July next; and thereafter, on the first Monday of December; unless the Governor of the State shall convene the Assembly, in the interim, by Proclamation.

Sec. 3. The members of the House of Representatives shall be chosen biennially, by the qualified Electors of their respective Districts, on the 1st Monday in August; whose term of office shall continue two years from the day of the General Election.

Sec. 4. No person shall be a member of the House of Representatives, who has not attained the age of 25 years; the same to be a free, white, male Citizen of the United States, and an Inhabitant of this State, one year preceding the time of his Election, and a resident of the District or County 30 days next preceding his Election; and have at his Election, an actual residence in the District he may be chosen to represent.

Sec. 5. Senators shall be chosen for the term of four years, at the same time and place of Representatives; they shall be thirty years of age, and possess the qualifications of Representatives, as to residence and Citizenship.

Sec. 6. The number of Senators shall not be less than one third, nor more than one half of the Representatives; and, at the first session of the General Assembly, after this Constitution takes effect, the Senate shall be divided by lot, as equally as may be, into two classes; the Seats of the Senators of the first class, shall be vacated at the expiration of two years, so that one half of the Senate shall be elected biennially.

Sec. 7. Each house shall choose its own officers; and judge of the qualification, election, and return of its own members; and

contested elections shall be determined in such manner as shall hereafter be directed by law.

Sec. 8. A majority, in each house, shall constitute a quorum to do business; but a smaller number may adjourn from day to day and compel the attendance of absent members, in such manner, and under such penalty, as each house may provide.

Sec. 9. Each house shall have all powers necessary for a Branch of the General Assembly, of a free and independent Government.

Sec. 10. Each member of the Assembly shall be privileged from civil arrest, during any Session, and in going to, and returning from the same.

Sec. 11. Neither house shall, without the consent of the other, adjourn for more than three days; nor to any other place, than that in which they may be sitting.

Sec. 12. The Assembly shall, at its first Session, provide for an enumeration of the white Inhabitants, and an apportionment for the Senators and Representatives.

Sec. 13. Each member of the Assembly shall take an oath or affirmation to support the Constitution of the United States, and of this State; and members shall, and are hereby empowered to administer said oath, or affirmation, to each other.

Sec. 14. The Veto power of the Governor, shall be allowed by the Assembly, except on bills, which, when reconsidered, shall be again passed by a majority of two thirds of those present; and any bill vetoed by the Governor, shall be returned within ten days, (Sundays excepted,) with his objections; otherwise it shall become a law; unless the Assembly, by adjournment, prevent its return.

Sec. 15. Every law passed by the Assembly, shall take effect from and after due publication by Authority.

Sec. 16. The voters of this State, may elect, at the first Election, not exceeding 17 Senators, and 35 Representatives.

ARTICLE 3. OF THE EXECUTIVE

Sec. 1. The Executive power shall be vested in a Governor, who shall hold his office for four years. A Lieutenant Governor shall be elected at the same time, and for the same term, who shall be the President of the Senate.

Sec. 2. No person shall be eligible to the office of Governor, or Lieutenant Governor, who has not been a Citizen of the United States and a resident of this State, two years next preceding his Election, and attained the age of 35 years, at the time of his Election.

Sec. 3. The Governor shall be Commander in Chief of the Militia, Navy, and all the Armies of this State.

Sec. 4. He shall transact all Executive business with the Officers of Government, Civil and Military; and may require infor-

mation in writing from the officers of the Executive Department, upon any subject relating to the duties of their respective offices.

Sec. 5. He shall see that the laws are faithfully executed.

Sec. 6. When any office shall, from any cause, become vacant, and no mode is prescribed by the Constitution and laws for filling such vacancy, the Governor shall have power to fill such vacancy, by granting a commission, which shall expire, when such vacancy shall be filled by due course of Law.

Sec. 7. He shall also have power, to convene the General Assembly, by Proclamation, when in his opinion the interests of the State require it.

Sec. 8. He shall communicate by Message to the General Assembly, at every Session, the Condition of the State; and recommend such matters as he shall deem expedient.

Sec. 9. In case of disagreement in the General Assembly, with regard to the time of adjournment, the Governor shall have power to dissolve the Session by proclamation.

Sec. 10. No Person shall, while holding any lucrative office under the United States, or this State, execute the office of Governor, except as shall be prescribed by law.

Sec. 11. The Governor shall have power to grant reprieves and pardons, and commute punishments after conviction; except in cases of impeachment.

Sec. 12. The Governor shall receive, for his services, such compensation as shall hereafter be provided by law.

Sec. 13. There shall be a Seal of this State, which shall be kept by the Governor, and used by him officially; and shall be called GREAT SEAL OF THE STATE OF DESERET.

Sec. 14. All grants and commissions shall be in the name and by the authority of the people of the State of Deseret; sealed with the GREAT SEAL of this State, signed by the Governor, and countersigned by the Secretary of State.

Sec. 15. A Secretary of State, Treasurer, and Auditor of Public accounts, shall be elected by the qualified Electors, who shall continue in office for the term of four years.

The Secretary of State shall keep a fair Registry of all the official acts of the Governor, and shall when required, lay the same, together with all papers, minutes, and vouchers, relative thereto, before either branch of the General Assembly, and shall perform such other duties as shall be assigned him by law.

Sec. 16. In case of Impeachment of the Governor, his removal from office, death, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant Governor, until such disability shall cease, or the vacancy be filled.

ARTICLE 4. OF THE JUDICIARY

Sec. 1. The Judicial power shall be vested in a Supreme Court, and such Inferior Courts, as the General Assembly shall from time to time establish.

Sec. 2. The Supreme Court shall consist of a Chief Justice, and two Associates, either two of whom shall be a Quorum to hold Courts.

Sec. 3. The Judges of the Supreme Court shall be elected by joint vote of both houses of the General Assembly, and shall hold their Courts at such time and place as the General Assembly shall direct; and hold their office for the term of four years, and until their successors are elected and qualified. The Judges of the Supreme Court, shall be Conservators of the peace throughout the State, and shall exercise such other Jurisdiction and appellate powers, as shall be prescribed by law.

Sec. 4. The style of all process shall be, the STATE OF DESERET, and all prosecutions shall be in the name, and by the authority of the State.

ARTICLE 5. OF ELECTIONS

Sec. 1. The Governor, Lieutenant Governor, Secretary of State, Treasurer, and Auditor of Accounts, shall be elected by the qualified Electors, as provided for members of the General Assembly, and at the time and place appointed for holding the same.

Sec. 2. The returns of every Election for Governor, Lieutenant Governor, Secretary of State, Treasurer and Auditor, shall be sealed up, & transmitted forthwith to the seat of Government, directed to the Speaker of the House of Representatives; who shall, during the first week of the Session, open and publish them in the presence of both Houses of the General Assembly; and the persons, receiving a majority of all the legal votes cast for their respective offices, shall be declared duly elected.

Sec. 3. The Governor, Lieutenant Governor, Secretary of State, Treasurer, and Auditor, shall, before entering upon the duties of their respective offices, take an oath or affirmation, to support the Constitution of the United States, and of this State; which oath or affirmation, shall be administered by the Speaker of the House of Representatives.

Sec. 4. The first Election for members of the General Assembly, and other officers under this Constitution, shall be held on the first Monday of May next, at the usual places of holding public meetings, in the different Districts and Settlements; at which time and place, the qualified voters shall vote for, or against the adoption of this Constitution; and, if a majority of all the legal votes, shall be in favor of its adoption, the same shall take effect from and after said Election.

Sec. 5. At the time and place of holding the Elections, the qualified Electors shall organize the Polls by appointing two Judges, who shall be authorized to qualify each other, and appoint two suitable persons, as Clerks; and said Judges shall, at the close of said Election, seal up the number of votes so cast, and forthwith transmit them to the President of this Convention.

Sec. 6. The returns of the first Election, herein provided for, shall be made to the Chairman of this Convention; who, together with the two Secretaries, shall proceed immediately to open said returns, and count the votes; upon ascertaining the persons receiving a majority of votes, they shall forthwith notify them of their Election.

Sec. 7. The General Assembly shall, at its first Session, provide by law, a general system of Election for officers, under this Constitution; and such other officers as may be hereafter created by law.

Sec. 8. The manner of Voting shall be by ballot.

Sec. 9. The General Assembly shall meet at Great Salt Lake City; which place shall be the seat of Government, until otherwise provided by law.

Section 10. All white male residents of this State, over the age of 21 years, shall have the privilege of voting at the first Election, and adoption of this Constitution; PROVIDED, that no person in the Military, Naval or Marine service of the United States shall be considered a resident of this State, by being stationed in any Garrison, Barrack, Military, or Naval place, or Station within this State; unless otherwise provided for by law.

ARTICLE 6. OF MILITIA

Sec. 1. The Militia of this State shall be composed of all able bodied, white male Citizens, between the ages of 18 & 45 years, except such as are, or may hereafter be exempt, by the Laws of the United States, or of this State; and shall be armed, equipped, and trained, as the General Assembly may provide by Law.

Sec. 2. All Commissioned officers of the Militia, (Staff officers excepted,) shall be elected by the persons liable to perform Military duty; and all Commissioned officers shall be commissioned by the Governor.

ARTICLE 7. AMENDMENTS OF THE CONSTITUTION

Sec. 1. If at any time the General Assembly shall deem it necessary, and for the best interest of the State, that this Constitution should be revised, altered, or amended; the Assembly shall cause such revisions, alterations, or amendments, to be published, in the same manner as shall be provided for the publication of the Statutes; and appoint a day, not less than thirty days thereafter, for

the Electors of the Commonwealth to assemble in their several precincts, and vote for, or against said revisions, alterations, or amendments; and if a majority of said Electors shall vote in favor of said revisions, alterations, or amendments, the same shall thereafter become parts, and parcels of this Constitution: Otherwise, this Constitution shall remain unaltered.

ARTICLE 8. DECLARATION OF RIGHTS

Sec. 1. In Republican Governments, all men should be born equally free and independent, and possess certain natural, essential, and inalienable rights; among which, are those of enjoying and defending their Life and Liberty; acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness.

Sec. 2. All Political power is inherent in the people; and all free Governments are founded in their authority, and instituted for their benefit; Therefore, they have an inalienable and indefeazible right to institute Government; and to alter, reform, and totally change the same, when their safety, happiness, and the public good shall require it.

Sec. 3. All men shall have a natural and inalienable right to worship God, according to the dictates of their own consciences; and the General Assembly shall make no law respecting an establishment of Religion, or of prohibiting the free exercise thereof, or disturb any person in his religious worship or sentiments; provided he does not disturb the public peace, nor obstruct others in their religious worship; and all persons, demeaning themselves peaceably, as good members of the State, shall be equally under the protection of the laws; and no subordination or preference of any one sect or denomination to another, shall ever be established by law; nor shall any religious test be ever required for any office of trust under this State.

Sec. 4. Any Citizen of this State, who may hereafter be engaged, either directly or indirectly, in a duel, either as principal, or accessory before the fact, shall be disqualified from holding any office under the Constitution, and laws of this State.

Sec. 5. Every person may speak, write, and publish his sentiments, on all subjects, being responsible for the abuse of that right: and no law shall be passed to abridge the liberty of speech or of the Press.

Sec. 6. The people shall be secure in their persons, houses, papers, and possessions, from unreasonable searches and seizures.

Sec. 7. The right of trial by Jury shall remain inviolate; and all criminals shall be heard by self, or counsel, at their own election.

Sec. 8. All penalties and punishments shall be in proportion to

the offense; and all offenses before conviction, shall be bailable; except capital offenses, where the proof is evident, or the presumption great.

Sec. 9. The writ of Habeas Corpus shall not be suspended, unless in case of rebellion, or invasion, or the public safety shall require it.

Sec. 10. Treason against this State, shall consist only in levying war against it, or adhering to its enemies, or giving them aid and comfort.

Sec. 11. The General Assembly shall pass no bill of attainder, or Ex Post Facto law, or law impairing the obligation of contracts to hinder the execution of Justice.

Sec. 12. The laws shall not be suspended, but by the Legislative, or Executive authority.

Sec. 13. The right of petition, by the people, shall be preserved inviolate.

Sec. 14. The right of Citizens, to keep and bear arms, for common defense, shall not be questioned.

Sec. 15. Private property shall not be taken for public use, without just compensation.

Sec. 16. No standing army shall be kept up, in time of peace; and the Military shall at all times, and in all places, be in strict subordination to the Civil power.

Sec. 17. The enumeration of certain rights shall, not be construed to impair, nor deny others, retained by the People.

ORDINANCE REGULATING ELECTIONS

*Passed by the General Assembly, November 12. 1849**

Sec. 1. Be it Ordained by the General Assembly of the State of Deseret, That on the first Monday of August, in the year of our Lord one thousand eight hundred and fifty three, and every four years thereafter, (unless changed by Amendments of the Constitution) there shall be an Election in each Precinct in this State, for the Election of Governor, Lieutenant Governor, Secretary of State, Treasurer, Auditor of Public Accounts, and all other State officers which have been, or may be created by law, whose term of office, shall be four years, and whose election is not otherwise provided for by law.

Sec. 2. On the first Monday of August A. D. one thousand eight hundred and fifty one; and every two years thereafter, there shall be Elections held, as aforesaid, for the Election of Representatives, Senators, and one Associate Justice of the County Court, in those Districts, or Counties, where the term of those elected has expired.

*See text, note 73.

Sec. 3. On the first Monday of August, one thousand eight hundred and fifty one, and every two years thereafter; there shall be an Election in each Precinct of this State, for Justices of the Peace, Constables, and such other Precinct or County officers, as may become necessary to elect, as may be prescribed by law.

Sec. 4. Every Precinct shall compose an Electoral District, and the County Judges of each County shall name a house, or place in each Precinct, where the Election shall be held; and appoint three Judges of said Election.

Sec. 5. The Electors of every Precinct, have the right to appoint Judges, and regulate their own Election; if not otherwise provided for.

Sec. 6. It shall be the duty of the Clerks of County Courts respectively, one month before each General Election, or six days before each special election, to make out and deliver to the Sheriff of their respective Counties, one Blank Poll Book; at the expense of the County, for each precinct in his County; properly ruled and laid off into Columns, with the necessary Certificates attached, which Books the Sheriff shall faithfully deliver, or cause to be delivered to the Judges of the Election, in their respective Precincts.

Sec. 7. The Judges before they enter upon their duties shall take the following oath or affirmation:—I—do swear or affirm (as the case may be) that I will faithfully, and impartially discharge, the duties of Judge of the present Election, according to Justice, and the best of my abilities; which oath or affirmation shall be administered by a Justice of the Peace, if present; if not, they are authorized to qualify each other.

Sec. 8. The Judges shall appoint a Clerk, who, before entering upon the duties of his appointment, shall take an oath or affirmation, which may be administered by either of the Judges of Election, that he will faithfully discharge the duties of his appointment to the best of his abilities, record the names of all the voters, and distinctly carry out in lines or columns the number of each voter.

Sec. 9. The time for opening, and closing the Polls, shall be between the hours of six o'clock in the morning, and nine o'clock in the evening, and one of the Judges shall cry in an audible voice the name of each voter as given in.

Sec. 10. The votes given at all Elections shall be by Ballot, and each voter shall give his vote by single ballot in a public manner, which shall be a paper ticket, on which shall be written or printed the names of the several candidates; in connection with the office, that the voter intends that each shall fill.

Sec. 11. When any person offers to vote in a Precinct of which he is not a resident, for State or County officers; if he possess the necessary qualifications of a voter; he may vote on taking

an oath or affirmation that he has not voted, and will not vote, in any other Precinct during the pending Election.

Sec. 12. The Judges of Election shall preserve good order; and may punish any disorderly person, for contempt, by fine, not exceeding one hundred dollars, at their discretion.

Sec. 13. The Judges shall decide on the legality of all voters; and no person that is a candidate for any office then pending in this State, shall sit as Judge, or act as Clerk, of such Election.

Sec. 14. At the closing of the Polls on the day of Election, the Judges shall in a public manner count off the number of Ballots polled, and call off distinctly the names of the several candidates on each Ballot; numbering them on the back, as counted, from one and upwards, and string the same on a twine, and needle; and the Clerk shall carefully mark down the number of votes given for each candidate as called off by the Judge.

Sec. 15. At the close of each Election, the Judges shall certify under their own hands, the number of votes given for each candidate, which shall be attested by the Clerk, who shall transmit the same, together with the Poll Book, to the Clerk of the County Court, in which the Election was held, within five days thereafter; and the Judges shall retain a true copy thereof, together with the Ballots, free to the inspection of all voters.

Sec. 16. The Clerks of the County Courts, shall within ten days after the close of each Election respectively take to his assistance two Justices of the Peace of his County, or two Judges of the County Court, and in a public manner examine and cast up the votes given to each candidate, and give to those having the highest number of votes, each a certificate of his election.

Sec. 17. The Clerks of the several Counties to whom a transcript of the votes in any Election is directed, shall within three days after the time limited for the examination of the Polls, cause to be conveyed to the seat of Government, addressed to the Secretary of State, a fair abstract of all the legal votes polled in their respective Counties, for State officers at such Election.

Sec. 18. Within twenty days after each General Election, or sooner if the returns have all been duly made, the Secretary of State shall, in the presence of the Governor, cast up the votes given in the several Counties in this State, for State officers, and shall give to those having the highest number of votes, certificates of their Election, under his own hand, with the Seal of the State affixed thereto.

Sec. 19. Should any two, or more candidates have an equal number of votes, the Secretary of State, with the assistance of the Lieutenant Governor, shall cast lots in the presence of the Governor, to decide which of the candidates shall fill the office.

Sec. 20. In all Elections of County officers, when there shall

be a tie given; the County Clerk and Judges, shall prepare and cast lots, and decide which of the candidates shall fill the office.

Sec. 21. When the Election of any County or Precinct officer, is contested by two or more candidates; it shall be the duty of the County Court to decide between them; and give him, in whose favor they decide, a certificate of his Election.

Sec. 22. Whenever a vacancy in any office shall occur, and a special Election shall become necessary, the Sheriff shall, ten days previous to the same, put up advertisements at three of the most public places in each Precinct in his County, stating the time and place of holding such Elections, unless otherwise directed in the writ of Election.

Sec. 23. All contested Elections for Governor, Lieutenant Governor, Secretary of State, Treasurer, and Auditor of Public Accounts, shall be decided by a joint vote of both Houses of the General Assembly, in the Hall of the House of Representatives, the President of the Senate presiding.

Sec. 24. If any person contest the Election of Governor, Lieutenant Governor, Secretary of State, Treasurer, or Auditor of Public Accounts, he shall present a petition to each House of the General Assembly setting forth the points on which he will contest the same, and the facts which he will prove in support of those points, praying for leave to produce his proofs, whereupon a vote shall be taken in each House, Yeas, and Nays, whether leave shall be granted, and if a majority of all the members of both Houses be in favor of the petitioner, they shall appoint a Joint Committee to take the testimony on the part of the petitioner, with power to send for persons and papers as witnesses, to meet at such time and place as they shall direct; and they shall notify the opposite party thereof, and of the points to be adduced, that he may attend with his witnesses: and said Committee, after taking the depositions of both parties, shall report the same to both Houses, and a day shall be fixed by a joint resolution for the meeting of both Houses to decide upon the same; on which decision, the Yeas, and Nays, shall be taken by the Clerks of both Houses, and entered upon their Journals.

Sec. 25. If any Judge or Clerk of any Election, or any officer acting in any wise pertaining thereto, after they have undertaken to perform the duties pointed out in this Ordinance, fail so to do; (unless prevented by sickness, inability, or unavoidable circumstances,) he shall be subject to a fine and punishment, at the discretion of the County Court, having Jurisdiction.

Sec. 26. All State, County, or Precinct offices that have been, or may be hereafter created, until the General Election Law of the State takes effect and not otherwise provided for by law, *shall* be filled by Executive appointment.

Approved November 20, 1849.

AN ORDINANCE REGULATING THE MILITIA
OF THE STATE OF DESERET

*Passed by the General Assembly December 8, 1849.**

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, That it shall be the duty of every able bodied white male Citizen, of this State; between the ages of Eighteen and Forty five years, (except such as may be exempt by law,) to perform military duty.

Sec. 2. It shall be the duty of each non-commissioned officer and private, to keep and preserve in good order and repair, one good rifle, musket, or yauger gun, with all necessary accoutrements; and not less than forty eight rounds of ammunition, suitable for his firelock.

Sec. 3. All horse companies, shall furnish themselves with good and sufficient horses, and all necessary accoutrements, and in addition to other arms, one pair of holster pistols, with ammunition and accoutrements as aforesaid; and shall keep and preserve the same in good order and repair.

Sec. 4. There shall be a muster and inspection of arms, of each company, as often as once in two months; commencing on the last Saturday of March next, a report of the condition of which, together with the amount of ammunition &c. shall be returned to the commander of their respective regiments within ten days thereafter.

Sec. 5. There shall be a drill of all commissioned and non-commissioned officers, of each Regiment, on the Saturday previous to each company muster. A Report of which, together with a consolidated report, of Company musters shall be returned to the Adjutant General's office, on or before the first day of November annually, and oftener if required by the Major General.

Sec. 6. There shall be a General Muster of each Regiment once in each year, which shall continue three days in succession, performing Camp duty, the Commanding officer of each Regiment fixing the time, of holding the same.

Sec. 7. Any musician, non-commissioned officer, or private (Orderly sergeant excepted) failing to attend any muster, and not remaining at the same for the time appointed, and not having his arms, accoutrements, and ammunition, as herein provided, for an inspection of the same, shall be liable to forfeit and pay, not exceeding the sum of five dollars; at the discretion of the Court.

Sec. 8. All commissioned company officers and orderly sergeants shall forfeit and pay not exceeding the sum of ten dollars for the like offense.

Sec. 9. All Regimental officers, either field or staff, for each

*See text, note 75.

offense of like nature, shall forfeit and pay, not exceeding the sum of twenty dollars.

Sec. 10. All persons, shall when on duty be subject to the orders, of their superior officer; and for any disobedience of orders, disrespect, or insult, shall be subject to arrest, punishment, or fine, at the discretion of the commanding officer.

Sec. 11. All officers shall deport themselves in a civil, courteous and orderly manner, towards each other, and towards the men under their command.

Sec. 12. All persons performing military duty, and keeping constantly on hand the arms, ammunition, accoutrements and animals as herein provided; all such property so kept, constantly on hand, shall be not liable to execution or taxation.

Sec. 13. All fines, forfeitures, and penalties, accruing as herein contemplated, may be collected before any magistrate or Court having Jurisdiction; and it shall be the duty of Orderly Sergeants in Companies; Adjutants, in Regiments; Brigade Inspectors, in Brigades; and Adjutant Generals, in Divisions; to prosecute all delinquents, and collect all fines and forfeitures, assessed in their respective commands, and pay over into the public Treasury, all sums so collected.

Sec. 14. Musicians shall provide themselves with good instruments, suitable to the service they have to perform, and keep and preserve the same in good order and repair; and attend all musters and drills; and all commissioned officers shall be armed with sword, or hanger, and when mounted, with holsters and pistols, with ammunition, and all necessary accoutrements.

Sec. 15. It shall be the duty of all officers ordering a muster or drill, to specify in his orders, the nature of the service to be performed, and give directions in relation thereto, and notices to all under their command, shall be read to them, or left in writing, at their last usual place of abode, by the proper notifying officer, who shall make due return thereof, stating on the back of said orders, the manner how he has executed the same, on or before the day of parade.

Sec. 16. The commanding officer of the Mounted Rangers is hereby required to increase his company to one hundred good and efficient men to act as minute men; to preserve the peace, and repel Indian depredations.

Sec. 17. The commander of this force is hereby authorized to call upon the Quarter Master for camp equipage, baggage wagons, and animals, necessary to carry the same; and upon the Commissary for supplies, when necessary, whose duty it shall be to furnish the same, at the expense of the State.

Sec. 18. There shall be one company of footmen, not less than one hundred good and efficient men, armed with muskets and cannon, at the public expense, to act as minute men, who shall be

provided for in the same manner, as herein provided for the Mounted Rangers.

Sec. 19. In consideration of the minute men holding themselves in readiness to go at the earliest warning, they shall be entitled to a reasonable compensation, when in actual service at the expense of the State.

Approved December 10, 1849.

AN ORDINANCE TO PROVIDE FOR THE ORGANIZATION OF THE JUDICIARY OF THE STATE OF DESERET

Passed January 9, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that a Supreme Court shall be organized, to consist of one Chief Justice, and two Associate Justices, either two of whom shall form a quorum to do business.

Sec. 2. The Justices shall be elected by the joint vote of both Houses of the General Assembly; and shall take an oath or affirmation to support the Constitution of the United States, and of this State, and faithfully and impartially perform and discharge the duties of their office, according to the best of their powers and abilities, and each file a bond in the office of the Secretary of State, conditioned for the faithful and impartial performance of the duties of said office, with good and approved securities, in a sum of not less than one thousand dollars, and not exceeding ten thousand dollars, at the discretion of the Secretary of State, which bond may be increased whenever he shall deem it necessary.

Sec. 3. These Judges shall hold their office for the term of four years, and until their successors are elected and qualified, and whenever a vacancy shall occur, by death, resignation, or removal from the limits of the State, or otherwise, the Executive shall have power to fill such vacancy by appointment; and the person so appointed shall have full power, after filing a bond and taking the oath of office as aforesaid, to act as a Justice of the Supreme Court, until the next meeting of the General Assembly, when said vacancy shall be filled, as provided for in the second section of this Ordinance.

Sec. 4. They shall have appellate jurisdiction in all cases of Law and Equity which may have been tried by the Inferior Courts, and have original jurisdiction over all civil cases where the sum in dispute shall exceed one thousand dollars, (provided the Clerk of said Court shall not enter upon his docket, any civil suit by appeal or otherwise, without first receiving a docket fee of twenty dollars, which sum shall be paid into the Public Treasury,) and in cases where the officers of the State are accused of neglect of duty, corruption, bribery, &c.

Sec. 5. They shall also have jurisdiction for the correction of errors, in all judicial proceedings.

Sec. 6. Whenever any or either of the Justices of the Supreme Court shall be accused of corruption, bribery, or wilful neglect of duty, the same shall be presented to the President of the Senate, and if he shall consider there is sufficient cause of complaint he or they shall be tried before the Senate, and if found guilty, shall be dismissed from office, and subject to fine or imprisonment as the Senate may deem necessary; and shall also be liable to civil suits for all damages sustained.

Sec. 7. The Supreme Court shall appoint a Clerk of said Court, who shall file a bond in the sum of not exceeding ten thousand dollars, with approved securities, in the office of the Secretary of State, and take an oath of office; whose duty it shall be to keep a faithful record of all the proceedings of said Court, in a book provided for that purpose, to issue all writs and processes that may be ordered or issued by said Court, and pay over and account for all monies that shall come into his hands by virtue of his office, and do such other duties as the Court from time to time shall direct, and shall continue in office during the pleasure of the Court.

Sec. 8. The Secretary of State shall provide said Court with an official Seal, at the public expense, which shall contain the words "*Supreme Court, State of Deseret*," and the Clerk shall place said Seal on all processes or documents issued by the Court.

Sec. 9. All persons accused, either in civil or criminal cases, shall have the privilege of being heard themselves, or by proxy, and shall have trial by Jury if they choose. It shall be the duty of the Court to grant a speedy trial, to issue compulsory process for witnesses, and in no case suffer technicalities to frustrate the ends of Justice. The Court or either of its Judges, are to grant writs of Habeas Corpus, and hear and determine the same, on the merits of the case.

Sec. 10. The Supreme Court shall hold annual sessions, at the Seat of Government, on the first Monday in November, and such special sessions at such time and place throughout the State, as the press of Judicial business, in their opinion, may require.

Sec. 11. The Governor shall have power to appoint a State's Marshall, whose term of office shall continue four years, or during the pleasure of the Governor, and until his successor is appointed and duly qualified,—and the said Marshall, when duly qualified, shall have power to appoint, by and with the consent and approval of the Governor one or more Deputy Marshalls, as the necessity of the case may require.

Sec. 12. It shall be the duty of the Marshall, and Deputy Marshalls, to take an oath of office, and each file a bond with approved securities, in a sum not exceeding twenty-five thousand dollars, in the office of the Clerk of the Supreme Court, for the faithful discharge of his or their official duties, which bond or bonds may be

increased at the discretion of the Executive, or the Judges of the Supreme Court.

Sec. 13. It shall be the duty of the Marshall, with his Deputies, to execute all orders, or processes, and decrees of the Supreme Court, and such other duties, as the Executive shall direct or may be required by Law.

Sec. 14. An Attorney General shall also be elected by the joint vote of both Houses of the General Assembly, whose term of office shall be four years, and until his successor is elected and qualified.

Sec. 15. It shall be the duty of the Attorney General, before entering upon his duties, to take an oath of office, and give bond and security to be approved by the Secretary of State, and filed in his office.

Sec. 16. It shall be the duty of the Attorney General to prosecute, in behalf of the State, individuals accused of crime, attend to legal business before the Courts wherein the State is a party; be the Counsellor of the Executive whenever required by him; and generally to do and perform all other business pertaining to his office, and such other duties as shall be required of him by the Executive, or by legislative enactment.

Sec. 17. There may also be elected a Prosecuting Attorney for each organized County, whenever the necessity of the people or public good requires it, who shall be elected as provided for the Attorney General in the first section of this Ordinance, and for the same term, and take an oath of office, and give bond and security to be approved by the Clerk of the County Court, and filed in his office.

Sec. 18. It shall be the duty of said Prosecuting Attornies to attend to legal business before the Courts in their respective Counties wherein the State is a party, proscute (sic) individuals accused of crime, and generally to do and perform all duties pertaining to their office.

Sec. 19. A Court shall be formed in each County, consisting of one Chief Justice, and two Associate Justices, (whenever the necessity of the inhabitants of said County require it,) either two of whom shall form a quorum to do business. The Chief Justice shall be elected by the joint vote of the General Assembly, and shall hold his office four years. The two Associate Justices shall be elected by the people of said County, also for the term of four years; each of whom shall hold their office until their successors are elected and qualified, and they shall take an oath of office and file a bond in the office of the Clerk of the Supreme Court, with approved securities, for the faithful and impartial discharge of their official duties, in a sum not exceeding ten thousand dollars each, to be approved of by said Clerk, which may be increased when the Judges of the Supreme Court may deem it necessary.

Sec. 20. In case of bribery or corruption of either of the aforesaid Justices, any one of whom may be tried before the Supreme Court, or the County Court of an adjoining County; and if found guilty shall be dismissed from office, and subject to fine or imprisonment, as the Court may deem necessary; and shall also be liable to civil suits for all damages sustained.

Sec. 21. At the expiration of two years after the first election for Associate Justices, the Junior Justice's term of office shall expire, and his place be filled by an election as herein contemplated, that one of the Associate Justices may be elected every two years.

Sec. 22. The County Court shall have jurisdiction over all civil and criminal cases arising in said County, on original cases exceeding one hundred dollars, and on appeals from Justice's Courts.

Sec. 23. It shall be the duty of the County Court, or either of its Judges, whenever application is made, and in their judgments the nature of the case requires it, to issue writs of Habeas Corpus, to try and determine the same on the merits of the case, and administer justice in all cases regardless of technical forms of law.

Sec. 24. They shall appoint a Clerk of the Court, who shall qualify, and give bonds same as the Judges of said Court, whose duty it shall be to keep and affix a seal to all papers issuing therefrom; it shall also be his duty to keep a record of all proceedings of said Court, issue process, and make and deliver transcripts in cases of appeals, and do such other duties as the Court shall direct.

Sec. 25. The Clerk of the County Court shall not enter a suit, either by appeal or otherwise, (except in criminal cases,) upon his docket, without first receiving a "docket fee" of ten dollars, which sum shall be paid into the Public Treasury.

Sec. 26. It shall be the duty of said Court to hold annual sessions on the first Monday in October, and such special sessions as in their judgment, the speedy execution of justice and public good may require.

Sec. 27. There shall also be one Sheriff for each County, whose term of office shall be four years, who shall be the chief Executive officer of the County, in which he is elected, and shall execute the orders and decrees of the County Court; he shall take an oath of office and file a bond with approved securities, not exceeding ten thousand dollars, in the office of the County Clerk, which bond shall be approved by the Court, and increased when the Court shall deem proper.

Sec. 28. Each Sheriff shall have authority to appoint such number of deputies, as may be necessary to perform the business of said County, who shall be approved of by the County Court.— Each deputy shall take an oath of office, and file a bond same as the Sheriff.

Sec. 29. Each Precinct in this State may elect one Justice of the Peace, and two constables; and Great Salt Lake City Precinct four Justices of the Peace, and eight constables; (and the same may be increased in any Precinct in this State, whenever the public good require it;) whose term of office shall be two years.

Sec. 30. It shall be the duty of every Justice of the Peace, to examine strictly and faithfully into the merits and demerits of all civil and criminal cases which may come before him, and to execute justice without respect to persons or favor, or the technicalities of the law, preserve the public peace, sit in judgment on all cases referred to him, and keep a true record of all proceedings had before him, and in case of appeal, to transmit a copy of the same to the Clerk of the Court to which the appeal is made.

Sec. 31. Each Justice of the Peace and constable shall take an oath of office, and shall file a bond with approved securities, of not less than one, nor exceeding ten thousand dollars, in the office of the County Court in which he resides, for the faithful discharge of his official duties.

Sec. 32. Any Justice of the Peace may officiate as Coroner, when occasion may require by holding inquests upon the bodies of such persons as may be found dead, or may have died suddenly, or by violence, or in any manner that may create suspicion of crime; it shall be his duty to take in writing the evidences that may be adduced in such cases, also his own decision thereon, the names of several persons present at the investigation, and file the same in the Clerk's office of the County Court; and he shall have authority to summon to his assistance such persons as he may deem necessary to hold such inquest, and dispose of, or inter said body, as he shall think proper.

Sec. 33. A docket fee of one dollar shall be paid to each Justice of the Peace, for each case coming before him, before he commences any suit by civil process, which sum shall be paid into the Public Treasury.

Sec. 34. Any Justice of the Peace may issue compulsory process for the attendance of witnesses, and may admit as evidence any depositions taken before any Justice of the Peace, Judge, or Clerk of Court; who shall seal up and transmit the same to the Court where the case is pending; provided that both parties are duly notified of the time and place of taking such depositions, and had the privilege of being present themselves, or by proxy, if they choose: all such depositions must be taken upon oath or affirmation.

Sec. 35. It shall be the duty of each and every Justice of the Peace, to punish by fine not exceeding one hundred dollars at his discretion, any person or persons who shall bring before him a vexatious lawsuit, through malice or private pique against the

defendant; all fines so collected shall be paid into the public Treasury.

Sec. 36. When any Justice of the Peace shall be found guilty of receiving a bribe, of using partiality, or knowingly giving an unjust decision; he shall be dismissed from office, and fined or imprisoned at the discretion of the County Court, and he shall also be liable for civil suits for damages.

Sec. 37. In all cases where civil suit is commenced before any Justice of the Peace, said Justice shall require the plaintiff to enter into bonds to be approved by the Justice, for all costs that may arise for witnesses, constables, and costs of Court; the witnesses shall be allowed the current price of labor per day, that they would have earned if they had been at home, and expenses, which bond shall be held by the Justice of the Peace. And on the termination of any suit, the Justice of the Peace shall decide whether the plaintiff or defendant shall pay said costs, or what portion shall be paid by each, according to the Justice of the case.

Approved Jan. 16, 1850.

AN ORDINANCE CONCERNING REVENUE

Passed by the General Assembly, January 10, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that there shall be elected annually, in each County of this State, an Assessor, who shall also be the Collector, who shall be sworn or affirmed to the faithful performance of his duty, and give bond and security approved by the public Treasurer, and deposited in his office within ten days after his election, and to hold his office until his successor is appointed and qualified.

Sec. 2. The Assessor and Collector for the respective Counties, shall be elected at the first election by the General Assembly of this State, upon the joint vote of the two Houses, and after the County Courts are organized, they shall have the privilege of appointing an Assessor and Collector annually, for their respective Counties, until otherwise provided for by law.

Sec. 3. It shall be the duty of the Assessors and Collectors, to assess and collect, for the current year, a tax of two cents upon each dollar's worth of personal property, money loaned, or on hand, and improvements upon real estate: provided, that public property, property belonging to religious societies for public purposes, and burying grounds, shall be exempt from all such assessments.

Sec. 4. The Assessors and Collectors are hereby authorized and required to assess all property at its current value, and collect the amount of tax arising thereon without delay, and pay over or

remit all amounts so collected, into the public Treasury, as often as once in each month.

Sec. 5. It shall be the duty of each Assessor and Collector, to keep a fair and faithful record of the names of owners of property, the amount assessed, and tax arising thereon, and collected, and paid over, and also the amount assessed not collected, and the reason why, if by removal, or otherwise, and return the same with a full statement of all his proceedings (sic) on or before the first day of December in each year, to the Auditor of public Accounts, whose duty it shall be to Audit the same, and report thereon to the General Assembly if then in session, or the first ensuing session.

Sec. 6. If any person shall refuse or neglect to pay the amount of tax assessed, as herein contemplated, it shall be the duty of the Assessor and Collector to enforce the collection thereof, in the most summary manner: provided, he shall in no case distress the widow, and the fatherless, nor oppress the honest poor.

Sec. 7. Any person or persons who shall fail to give in a true report to the Assessor and Collector, of all taxable property owned by said person or persons, according to the provisions of this Ordinance, or wilfully (sic) conceal from the Assessor and Collector, any taxable property, owned by him or them, or otherwise try to defraud the public revenue, shall, on conviction thereof, be liable to a fine of not exceeding one thousand dollars, or the amount of money or property so concealed, at the discretion of the Court having jurisdiction.

Approved, Jan. 16, 1850.

AN ORDINANCE, AUTHORIZING A BOUNTY ON KILLING WOLVES, &c.

Passed by the General Assembly, January 14, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that a bounty of two dollars is hereby offered for the killing of each large mountain wolf; also, one dollar for the killing of each small prairie wolf, or fox; said bounty to be paid out of the public Treasury as hereinafter prescribed; provided, that the person claiming the bounty shall be the person who killed the wolf or fox; and that the application for said bounty shall be made within ten days after the killing, by preserving the wolf's or fox's pelt entire, together with two inches or more of the upper jaw next preceding the end of the nose thereunto attached in its natural state; and the killing shall have been performed within the distance of twenty miles of some white settlement within this State.

Sec. 2. Any person on killing a wolf or fox, may claim the bounty thereon offered, by presenting the wolf's or fox's pelt, with the upper jaw thereunto attached, as specified in the first section of this Ordinance, to any magistrate, who is hereby authorized to question any person making such claim, and if the magistrate is not satisfied with the answer of the claimant, he may put him on his oath or affirmation; and when satisfied of the justice of any claim, said magistrate shall issue his certificate of the fact, making a record of the same on his docket; and such certificate shall be receivable by the Assessor and Collector of taxes, for the amount therein specified.

Sec. 3. If any person shall kill a wolf or fox puppy and present the pelt and upper jaw thereof, in like manner as prescribed in the first and second sections of this Ordinance, for the presentation of wolf or fox pelts, for bounty, the person so applying shall, in like manner, be entitled to a bounty of fifty cents, for each pelt and jaw so presented, without reference to large or small kind, and the magistrate shall issue his certificate accordingly.

Sec. 4. It shall be the duty of each and every magistrate, on the issue of every certificate of bounty, for wolf, fox, or puppy pelts and jaws, to see that said person receiving said certificate, forthwith remove said jaw or jaws, from said pelt or pelts, and burn the jaw or jaws in his presence.

Sec. 5. If any person shall make application to any magistrate for bounty, contrary to the provisions and designs of this Ordinance, or shall deceive, or attempt to deceive said magistrate concerning the facts in the case, and it shall appear evident to said magistrate that the person so applying has deceived, or attempted to deceive concerning his claim, or has sworn or affirmed falsely, for such deception, or attempted deception; said magistrate shall forthwith levy such fine as justice shall, in his opinion, demand; said fine to be collected off the property of the person making the application, and paid into the public Treasury; and if said deception or attempted deception shall arise through false swearing or affirming, the person, so deceiving or attempting to deceive, shall be further and otherwise punished for perjury, at the discretion of the Court having jurisdiction, or as the law shall direct.

Sec. 6. It shall be the duty of every magistrate on issuing a certificate for bounty, to number the same, and each succeeding certificate, and report the number of certificates by him issued, with the amount of each, to the Assessor and Collector of taxes, on the first day of January, April, July, and October annually.

Approved January 16, 1850.

AN ORDINANCE FOR TAKING OUT
THE RIVER JORDAN

Passed by the General Assembly, Jan. 15, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that the sum of three thousand dollars shall be appropriated, out of the Public Treasury, for the construction of a dam across the River Jordan; and conveying all, or part of the water, out of its present channel, to the farming lands on the west side of the Jordan, for irrigating, and other purposes, during the year 1850.

Sec. 2. Said funds shall be paid over by the Treasurer, to the Committee on Public Works; namely, George A. Smith and Ezra T. Benson, or their order.

Sec. 3. Said Committee on Public Works shall give bonds, with approved securities, to the Secretary of State, before entering upon the duties herein specified.

Sec. 4. It shall be the duty of said Committee, to keep a correct account of all monies paid out by them, and report the same to the Auditor of Public Accounts, on or before the first day of December next.

Approved, Jan. 15, 1850.

AN ORDINANCE, FOR TAKING OUT THE BIG
COTTONWOOD, AND OTHER CREEKS, FOR
IRRIGATING AND OTHER PURPOSES

Passed by the General Assembly, Jan. 15, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that the sum of two thousand dollars shall be appropriated out of the Public Treasury, for the purpose of taking the water out of the channels of the Big Cotton-wood, Mill, Big and Little Canyon Creeks, for the purpose of irrigating the farming lands, and the east part of the city, and for other purposes.

Sec. 2. Said funds shall be paid by the Treasurer, to the order of John D. Lee, who is hereby appointed a Committee, to superintend the works.

Sec. 3. Said John D. Lee, shall give bonds with approved security, to the Secretary of State, for the faithful performance of the duties of his office, and also the faithful appropriation of the money, paid to him.

Sec. 4. Said John D. Lee shall keep a correct account of all monies received and paid out by him, and present a copy of the

same to the Auditor of Public Accounts for examination, as soon as the work is completed, or before the first day of December next.

Approved, Jan. 15, 1850.

AN ORDINANCE PROVIDING FOR STATE AND
COUNTY COMMISSIONERS, ON ROADS

Passed by the General Assembly, Jan. 15, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that a State Commissioner on public roads shall be elected by the General Assembly, whose term of office shall be four years, and until his successor is elected and qualified; and who shall take an oath, and give bond with security for the faithful performance of the duties of his office; which bond shall be approved by the Secretary of State, and filed in his office.

Sec. 2. Whenever the General Assembly shall grant a State road, from one given point to another, it shall be the duty of the State Commissioner to institute a speedy survey for said road, on the most feasible and practicable route, having special reference to public convenience, utility, and durability; showing distances, altitude of hills, soils, rivers, ravines, and all such like information relating to convenience, and expense, &c., with all reasonable dispatch, to the Governor, who, with the Commissioner, shall decide on the location of said road, and all such, and other maps and reports; and maps and reports, of all surveys made by the State's Commissioner, shall be filed in the office of the Secretary of State, within a reasonable time.

Sec. 3. If it shall appear evident that there is but one feasible route for any road granted by the General Assembly, or if the Governor shall instruct the Commissioner to locate any given road on any particular route, previous to a survey; then it shall be the duty of the Commissioner to locate said road without delay, and file a report of each and every location of a State road, in the Secretary's office, as in the second section.

Sec. 4. It shall be the duty of State Commissioners to make all contracts for building bridges, aqueducts, culverts, turnpikes, and all other fixtures necessary for the completion of any public road, located by himself or predecessors in office, yet remaining uncompleted, and draw upon the Public Treasury for such money as shall from time to time be granted by the General Assembly, for the payment of said contracts; keep an accurate account of all sums of money by him received, and how expended, and make a true report of the same, on or before the first of December of each year, to the Auditor of Public Accounts.

Sec. 5. The County Court, in each County, shall have power to appoint one or more Commissioners, whenever they shall deem it necessary, to locate all County roads within the limits of said County, whose term of office shall be two years, and until their successors are appointed and qualified. They shall also give bond and security, for the faithful performance of the duties of their office, to be approved by the Clerk of said Court, and filed in his office.

Sec. 6. It shall be the duty of all County Commissioners so appointed, to make all contracts for improvements upon all such roads, locating the same upon the most judicious routes, and keep and make a true and full report of all their proceedings, and lay the same before the County Court, at each regular session of the same; and before they shall cease to officiate in said office, file all such reports in the office of the Clerk of the County Court.

Sec. 7. The Commissioners herein provided for, shall locate all roads herein contemplated, upon such ground as shall be most conducive to the public benefit, and have power to open the same through enclosures, farming lands, &c., where necessary.

Sec. 8. Any person feeling him or herself damaged by the opening of any such road, through or across their premises, may have the same appraised by three judicious men, who shall, in calculating such damages, also consider the benefit accruing to said premises in consideration of said road, and if it shall appear that the premises through which said road shall pass, are damaged more than benefited by the same, the owners thereof may recover the same by appeal to the County Courts, all such amounts to be paid out of the Public Treasury.

Sec. 9. The people in each Precinct may, at the time of holding elections, elect a Supervisor of roads in each Precinct annually, whose duty it shall be to call out and expend the poll tax in each Precinct, upon all roads within said Precincts. It shall be his duty to open and keep in repair all such roads, and to collect from all delinquents the equivalent of their labor, and expend the amount so collected upon the same.

Approved, Jan. 15, 1850.

AN ORDINANCE AUTHORIZING THE LOCATION OF STATE ROADS, &c

Passed by the General Assembly, Jan. 28, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that a State road, eight rods in width, be located from Ogden, the County seat of Weber County, south, passing the

Temple Block, in Great Salt Lake City; and terminating at the Town of Provo, the County seat of Utah County.

Sec. 2. Also a State road, of the same width, from the Temple Block in Great Salt Lake City, to the County seat of Tuilla County; and the State Commissioner on public roads, is hereby required to take due notice, and govern himself according to the Ordinance in such case made and provided, relating to his duties, in locating the same.

Approved Feb. 1, 1850.

AN ORDINANCE PROVIDING FOR THE LOCATION
OF COUNTIES AND PRECINCTS THEREIN
NAMED, &c

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that all that portion of country known as Weber Valley, and extending as far south as Stony Creek, and west to the Great Salt Lake, shall be called Weber County.

Sec. 2. The County seat of said County shall be located at Ogden City.

Sec. 3. The County of Weber shall be divided into three Precincts, as follows:—The City Precinct shall include all of the country lying in said County, between Ogden River and Sandy Creek, all north of Ogden shall be called Ogden Precinct, and all south of the second Creek in said County, Sandy Precinct.

Sec. 4. All that portion of country known as the Valley of the Great Salt Lake, and lying south of Stony Creek, shall be called Great Salt Lake County.

Sec. 5. The County seat of said County shall be at Great Salt Lake City.

Sec. 6. Great Salt Lake County shall be divided into five Precincts as follows, to-wit:—All north of the Hot Spring, and west to the Jordan; thence down that river, eight miles; thence west to the Great Salt Lake; to be called North Canyon Precinct.

Sec. 7. City Precinct shall include all that part of said County lying east of Jordan, and between North Canyon Precinct and the farming lands on the south line of the City, and to the western limits of said County.

Sec. 8. All that portion of country known as the farming land east of Jordan, south of City Precincts, and north of the south line of the Big Field, thence to the eastern line of said County, to be known as Farmer's Precinct.

Sec. 9. Cotton-wood Precinct shall include all of that portion of said County lying south of Farmer's Precinct, and east of Jordan.

Sec. 10. All of that portion of said County lying west of the Jordan River, and south of North Canyon Precinct, shall be known as Western Jordan Precinct.

Sec. 11. All that portion of country called Utah Valley, shall be called Utah County; the County seat of which shall be located at Provo City.

Sec. 12. The aforesaid County shall be one Precinct, when the County Court shall deem it necessary to organize; in which case, the said Court is hereby authorized to divide off as many Precincts as shall be necessary for the convenience of the people.

Sec. 13. San Pete Valley shall be a County, including the boundaries of said valley, and called San Pete County; having one Precinct, until the County Court shall deem it necessary for the convenience of the people to have more; when the said Court may create more as they shall see proper.

Sec. 14. Tuilla Valley shall be a County, called Tuilla County, having one Precinct, until otherwise ordered by the County Court. The inhabitants may organize said County, and locate the County seat wherever they shall see proper, and until they shall so organize, said County shall be considered one Precinct, and may have a Justice of the Peace and two constables, and be attached to the Great Salt Lake County, for judicial, revenue, and election purposes.

Sec. 15. Little Salt Lake Valley shall be a County including the eastern limits of said Valley; the County Court of which may organize the Precinct as they shall deem necessary.

Sec. 16. There shall be a Precinct, called Bridger's Precinct, at Black's Fork, including the settlements of all white inhabitants in that region, between Bear and Green Rivers, and within the limits of this State, until otherwise provided by law.

Sec. 17. Whenever a County is mentioned as including a valley, the boundaries of the same shall extend to the natural boundaries of said valley,—the summit of the surrounding mountains, on the highest dividing ridge between said vallies.

Sec. 18. All Counties which do not organize are hereby attached to the next nearest organized County for judicial, revenue and election purposes; nothing herein contained shall be so construed as to prevent all such Counties having at least one Justice of the Peace and two constables, whenever the inhabitants of said County shall deem it necessary, and elect such officers.

Sec. 19. All Justices of the Peace and constables so elected, shall qualify in the next nearest organized County, as contemplated in the Ordinance concerning the Judiciary.

Approved, Jan. 31, 1850.

AN ORDINANCE INCORPORATING THE
UNIVERSITY OF THE STATE OF
DESERET

Passed by the General Assembly, Feb. 28, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that a University is hereby instituted and incorporated, located at Great Salt Lake City, by the name and title of the University of the State of Deseret.

Sec. 2. The powers of the University shall be vested in a Chancellor and twelve Regents; the number of which Regents may be increased when necessary, who shall be chosen by the joint vote of both Houses of the General Assembly, and shall hold their office for the term of four years; and until their successors are qualified.

Sec. 3. The Chancellor shall be the chief Executive officer of the University, and Chairman of the Board of Regents.

Sec. 4. The Chancellor and Board of Regents are a body corporate, to sue and be sued; to act as Trustees of the University, to transact, or cause to be transacted, all business needful to the prosperity of the University, in advancing all useful and fine arts and sciences; to select and procure lands; erect and purchase buildings; solicit donations; send agents abroad; receive subscriptions; purchase books, maps, charts, and all apparatus necessary for the most liberal endowment of any library, and scientific Institution; employ professors and teachers; make bye-laws, establish branches of the University throughout the State; and do all other things that fathers, and guardians of the Institution ought to do.

Sec. 5. The Chancellor and Regents, may appoint a Secretary, and define his duties.

Sec. 6. The Chancellor, Regents, and Secretary, before entering upon the duties of their respective offices, shall each take an oath of office, and file a bond in the office of the Secretary of State, with approved securities, in a sum not less than ten thousand dollars, conditioned for the faithful performance of their several duties; which sum may be increased at the discretion of the Executive of the State.

Sec. 7. There shall be a Treasurer of the University elected in the same manner, and for the same time, as the Chancellor and Regents; whose duty it shall be to receive and safely keep the funds of the University, or dispose of the same, as he shall be directed by the Board of Regents; and keep accurate records of all funds that may come into his possession; and keep his books open at all times for the inspection of the Chancellor and Regents, or any of them, and of the Executive and Secretary of State.

Sec. 8. The Treasurer, before entering upon the duties of his office, shall take an oath of office, and file a bond, with approved security, in the office of the Secretary of State, in the sum of one hundred thousand dollars; conditioned for the faithful performance of his duties, which sum may be increased at the discretion of the Executive of the State.

Sec. 9. Should a vacancy occur in the Board of Regents, or any office in the Institution, during the recess of the General Assembly, the Executive of the State may fill such vacancy.

Sec. 10. It shall be the duty of the officers of the University to prepare, and open books, and be ready to receive subscriptions, donations and appropriations, on or before the sixth day of April next; and shall legibly enter upon their books, all subscriptions, and donations to the University, with the names of the donors, time and place, and preserve the same.

Sec. 11. The sum of five thousand dollars is hereby appropriated annually out of the State Treasury, for the use and benefit of said University.

Sec. 12. The Board of Regents shall have a Seal, known as the Seal of the University; which may accompany all their official correspondence, and all other legal documents given under the hands of the Regency of the University.

Sec. 13. It shall be the duty of the Chancellor and Board of Regents, as soon as the funds arising from donations or otherwise may justify, to establish a free school Institution for the benefit of orphans, and other indigent worthy persons.

Sec. 14. The Secretary and Treasurer shall each present a full and explicit report in writing of the situation, funds, and doings of the University in their several departments, on the first of December in each year, to the Secretary of State.

Approved, Feb. 28, 1850.

AN ORDINANCE IN RELATION TO COUNTY RECORDER

Passed by the General Assembly, March 2, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that a County Recorder shall be elected at the usual place of holding Elections in each organized County of this State, whose term of office shall be four years, and until his successor is qualified.

Sec. 2. The recorders in their respective Counties shall take an oath of office, and give bond and security to be approved by the County Court, and filed in the County Clerk's office.

Sec. 3. It shall be the duty of Recorders in their respective Counties, to provide themselves with good and well bound books suitable for the purpose, and record therein all transfers or conveyances of Land or Tenements, and all other Instruments of writing and Documents suitable, necessary and proper to be recorded; in a fair and legible manner.

Sec. 4. The Recorders in their respective Counties shall also procure and keep a suitable book for the purpose of recording town and city plats, and plats of all surveys of lands, roads, and surveys of public works, whenever the same shall be permanently located, and being within their respective Counties.

Sec. 5. The books of record shall be indexed in alphabetical order, and free to the examination of all persons, and upon the filing of any paper for record, the Recorder shall endorse upon the back thereof the time of receiving it.

Sec. 6. To make deeds, bonds, mortgages and all other instruments of writing, which are to be recorded on the County records lawful, they shall be acknowledged before the County Recorder, without which they shall not be valid.

Approved, March 2, 1850.

AN ORDINANCE, CREATING A SURVEYOR GENERAL'S OFFICE, &c

Passed by the General Assembly, March 2, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that a Surveyor General for the State shall be elected by the General Assembly, whose term of office shall be four years, and until his successor is qualified.

Sec. 2. The Surveyor General shall take an oath of office, and give bond and security to be approved by the Secretary of State; and filed in his office.

Sec. 3. The Surveyor General shall keep his office at the Seat of Government, and keep a record of all surveys made by himself or reported to him by other surveyors, in a book suitable for the purpose. He shall also have a general superintendence and supervision of all surveys of land, made within the State.

Sec. 4. There shall also be a County Surveyor, appointed by the County Court in each County, whose term of office shall be four years, and until his successor is qualified.

Sec. 5. The County Surveyor shall take an oath of office, and give bond and security to be approved by the Clerk of the County Court, in their respective Counties, and file the same in his office.

Sec. 6. All surveys made in any County shall, upon the completion thereof be returned to the County Surveyor, who shall file a copy thereof, together with a copy of all surveys made by himself, in the County Recorder's office, in the County wherein the same is made; and transmit another copy of the same, together with the surveys made by himself, to the Surveyor General's office at the Seat of Government.

Sec. 7. It shall be the duty of the Surveyor General, and all County Surveyors, to supervise all surveys made in their respective jurisdictions, that the same may be accurate, and no report shall be filed for record, until the same shall be certified to, by the Surveyor General, or County Surveyor, as being correct.

Sec. 8. All surveys made in this State, shall be made to correspond with the original survey of Great Salt Lake City, and in all new surveys, certificates approved by authorized surveyors shall be considered title of possession, to the holding of the same for the amount of land therein described.

Sec. 9. It shall be the duty of all surveyors within the State, to make return of all such reports within ten days, to the Recorder of the County wherein the survey is made, and transmit another copy of the same to the Surveyor General's office, within twenty days after the same shall be completed.

Approved, March 2, 1850.

AN ORDINANCE, AUTHORIZING THE ERECTION
OF A BUILDING FOR THE SAFE KEEPING OF
PUBLIC PROPERTY, PURCHASING ARMS,
AMMUNITION, SUPPLIES, &c.

Passed by the General Assembly, March 2, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that the Quartermaster of the State of Deseret is hereby authorized to erect a suitable building for the safe keeping and preservation of Ordnance, camp equipage, ammunition, small arms, supplies, &c.

Sec. 2. The Quartermaster is also authorized to purchase all arms and munitions of war necessary, and it is hereby made his duty to cause the Ordnance to be repaired, and put in complete order without delay.

Sec. 3. Any person having furnished supplies for the Utah expedition against the Indians, and the amount of the same not having been ascertained or allowed, or any expense incurred by reason of this Ordinance, or the Ordinance regulating the Militia, passed February 27 ult., the same may be audited by the Auditor

and if found correct, he shall give an order upon the Treasurer for the same, who shall pay the same out of any money in the Public Treasury, not otherwise appropriated.

Approved, March 2, 1850.

AN ORDINANCE PROHIBITING THE SALE OF ARMS, AMMUNITION, OR SPIRITUOUS LIQUORS TO THE INDIANS

*Passed, March 29, 1850.**

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that if any person shall hereafter trade or give any guns, rifles, pistols, or any other deadly weapons, ammunition or spirituous liquors, to any Indian; without having a license, shall on conviction thereof before any Justice of the Peace, be fined in a sum not exceeding five hundred dollars for each offense, and also forfeit all the property received from the Indian, which shall be sold, and the proceeds thereof paid into the Public Treasury.

AN ORDINANCE CONCERNING REVENUE

Passed, July 4, 1850.†

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that all spirituous liquors which are offered for sale, or disposal in any way, within this State, the same shall be assessed and taxed at the rate of fifty per cent upon the selling price thereof.

Sec. 2. It is hereby made the duty of the Assessor and Collector, to assess and collect the above tax, from and after the publication of this Ordinance, in the same manner, and under the same regulations and provisions, as required in the Ordinance concerning Revenue, passed Jan. 10. 1850.

Sec. 3. All Iron, Steel, Castings, Glass, Nails, Hardware, Hollowware, Glass and Queensware, Paints, Oils, Dye-Stuffs, Tea, Coffee, Sugar, Rice, Molasses, Dried Fruit and all other Groceries, together with Medicines, Boots, Shoes, and all kinds of Leather, are hereby exempted from all and any assessment, or tax whatever.

Sec. 4. Any law or ordinance, incompatible with this, so far as relates to the articles mentioned in this Ordinance are concerned, the same is hereby repealed.

Approved, July 4, 1850.

*See text, note 85.

†Reprinted from *The Deseret News*, July 6, 1850.

AN ORDINANCE INCORPORATING THE
PERPETUAL EMIGRATING COMPANY

*Passed by the General Assembly, September 14, 1850.**

Whereas, in the fall of 1849, the Church of Jesus Christ of Latter-day Saints in this State, did by voluntary donation create a fund, for the laudable and benevolent purpose of facilitating the emigration of the poor to this State; and,

Whereas, labor, industry, and economy is wealth, and all kinds of mechanics and laborers are requisite for building up and extending the benefits of civilized society, subduing the soil, and otherwise developing the resources of a new country; and,

Whereas, there are many good and worthy people, who would gladly emigrate to this State, if they were provided with the means; and,

Whereas, we consider it a subject worthy of consideration and encouragement, fraught, as it is, with the best interest of society, not only by adding to the national wealth, and extending the area of civilization, but accomplishing the still more generous and benevolent purpose, of transplanting to a more genial soil—to a place where labor and industry meet their due reward; where man's best nature and intelligence can arise and assert their supremacy: the poor and the oppressed, whose unremitting toil, owing to their location and associations with which they are surrounded, has been insufficient to procure even the most common necessities of life, thereby dooming not only themselves, but their children in all future generations, to a precarious and bare subsistence, thereby binding the mind and the intelligence down to the unanswerable arguments of unrequited labor and want; therefore, to encourage and perpetuate this enterprise, We, the General Assembly of the State of Deseret, do ordain and establish the following ordinance, to wit:

AN ORDINANCE, *Incorporating the Perpetual Emigrating Company.*

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that the General, or a Special Conference of the Church of Jesus Christ of Latter-day Saints, to be called at such time and place as the First Presidency of said Church shall appoint—is hereby authorized to elect, by a majority, a company of not less than *thirteen* men, one of whom shall be designated as their President, and the others, Assistants.

Sec. 2. This Company is hereby made and constituted a body corporate under the name and style of the Perpetual Emigrating Company; and shall have perpetual succession, and may have and use a common seal, which they may alter at pleasure.

*Reprinted from *The Deseret News*, September 21, 1850.

Sec. 3. This Company, under the name and style aforesaid, shall have power to sue, and be sued, plead, and be impleaded, defend, and be defended, in all Courts of law or equity, and in all actions whatsoever; to purchase, receive, and hold property, real and personal; to receive, either by donation on deposit, or otherwise, money, gold dust, grain, horses, mules, cows, oxen, sheep, young stock of all kinds, as well as any and every kind of valuables, or property, whatsoever; to emit bills of credit and exchange; to sell, lease, convey, or dispose of property, real and personal; and finally to do and perform any and all such acts as shall be necessary and proper for the interest, protection, convenience or benefit of said Company.

Sec. 4. A majority of said Company at Head Quarters shall form a quorum, to do business, and shall elect from their number a Secretary, Treasurer, and Recorder; and shall have power to select and appoint all other officers and agents necessary to transact the business of said Company.

Sec. 5. It shall be the duty of the President of the Company to superintend all the business of the Company: he shall also sign all certificates, bills, vouchers, as well as all other papers and documents pertaining to the general business of the Company, which shall be countersigned by the Secretary.

Sec. 6. It shall be the duty of the Recorder, to record in a fair and legible hand, all the general business transactions of the Company, in good and sufficient books suitable for the purpose, which he shall procure at the expense of the Company, and safely keep and preserve the same.

He shall also make a faithful and accurate record of all donations to the Fund, of the names of persons donating, the amount, kind of property &c., in books separate and apart from any other entries, and safely keep and preserve all the books and papers of the Company; the said books being free to the inspection and examination of all persons interested.

Sec. 7. The President, and Assistants, shall individually give bond and security in a sum of not less than ten thousand dollars to be approved by the First Presidency of said Church, and filed in the General Church Recorder's office.

Sec. 8. The Secretary, Treasurer, and Recorder, and all other officers or agents appointed by the Company, shall give bond and security to be approved by the President of the Company, and filed in the Company Recorder's office; and all the Company shall be responsible for the acts of all officers and agents so appointed.

Sec. 9. There shall be a general settlement of all the business transactions of the Company, so far as returns are received from abroad, as often as once in each year; and it shall be the duty of all the officers and agents, to make out correct returns of all

their transactions, and deliver or transmit the same to the Secretary of said company, on or before the first day of December in each year; and it shall be the duty of the President of the Company to produce or exhibit a manifest of the same, & file it in the Recorder's office; as also, a copy of the same in the General Church Recorder's office, as soon as practicable thereafter.

Sec. 10. It shall be the duty of the Treasurer to keep an accurate account of all money or property received and disbursed by him, and make returns as herein before directed.

Sec. 11. The Company being collectively responsible for their own officers and agents, shall have the power of substituting others in their places, or dismissing them or any of them from office, and it shall be the duty of all persons so superceded or dismissed, to pay over and to pass into the hands of their respective successors, or the Company, all monies, property, books, papers, accounts of every name and nature belonging, or in any way pertaining to the business of said Company.

Sec. 12. It shall be the duty of the Company to appoint one or more of their number to travel on the business of the Company, to procure wagons, cattle, mules, horses, &c., as shall be necessary for the purpose of the Emigration of the Poor; who shall also have the general direction of all matters and things pertaining to said Emigration, while abroad; and he or they shall also make their annual returns, as herein before directed.

Sec. 13. The entire proceeds of the business of this Company, shall inure to the Perpetual Emigrating Fund for the Poor; whether arising from donations, insurance, deposits, (sic) exchange, increased value of property, or in any other way or manner whatsoever. And the general business of the Company shall be devoted, under the direction and supervision of the First Presidency of said Church, to promote, facilitate, and accomplish the Emigration of the Poor.

Sec. 14. The members of this Company shall hold their offices at the pleasure of the Conferences hereinbefore mentioned; but the First Presidency of said Church shall have power to fill all vacancies that may occur, by death, removal, or otherwise; and all such persons so appointed, shall qualify as herein before directed, and hold the offices until superceded by an election.

Sec. 15. No officer, agent or member of the Company, shall be permitted to retain in his hands any portion of the funds of the Company, as compensation; but shall receive such remuneration as shall be awarded him or them upon settlement with the board of President and Assistants.

Sec. 16. All persons receiving assistance from the Perpetual Emigrating Fund for the Poor, shall reimburse the same in labor or otherwise, as soon as their circumstances will admit.

Sec. 17. The Islands in the Great Salt Lake, known as Stans-

bury's Island and Antelope Island, are hereby reserved and appropriated for the exclusive use and benefit of said Company, for the keeping of stock, &c.

AN ORDINANCE AUTHORIZING THE ORGANIZATION OF DAVIS COUNTY

*Passed by the General Assembly, October 5, 1850.**

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, That all that portion of country included in the following boundaries, to wit: beginning at the Hot Springs, and running thence west to the River Jordan, then down said river eight miles, thence west to the Great Salt Lake; and lying south of the dividing ridge from the mountains on the east, across the desert west, and south of the Weber River, to the Great Salt Lake; be hereafter known by the name of Davis county.

Sec. 2. The Marshall of the State, under the direction of the Executive, is hereby authorized to organize said county.

Sec. 3. All officers appointed, or elected under this organization, shall hold their offices, until superceded by an election held in pursuance of the ordinance regulating elections, passed Nov. 12, 1849.

Approved, Oct. 5, 1850.

Brigham Young,
Governor.

GOVERNOR'S MESSAGE:

Deseret, December 2, 1850.

TO THE SENATORS AND REPRESENTATIVES OF THE STATE OF DESERET

GENTLEMEN:—Again have our duties brought us together in the capacity of a legislature, for the purpose of establishing government, and prescribing laws and regulations, which shall prove adequate to the wants and necessities of the people.

It is usual upon occasions like this, to lay before the law-making department, a full and concise report of the situation of affairs pertaining to the government; as well as to make such suggestions and recommend such measures as in the opinion of the executive will prove the most advantageous to the body politic. I purpose so to do, so far as I shall have the ability and the means within my reach, reserving unto myself the privilege of completing any report, as circumstances shall dictate or require.

*Reprinted from *The Deseret News*, October 19, 1850.

It is probably known to you that Congress has passed an Act to establish the Territory of Utah, and provided for taking the census of Deseret; but as yet, no official announcements have been made; consequently the government of Deseret will continue in all its departments, until such time as it shall be superceded by an organization contemplated under the act of congress. Whatever may be effected under the new organization, we have the proud satisfaction, of having sustained a quiet, yet energetic government, under all the vicissitudes incident to new and untried localities; and when the general government shall have assumed to pay the expenditures consequent upon the Indian expeditions;—of being comparatively free from debt.

Unlike the golden browed neighbors of our sister state; no agent of ours is hawking about our state bonds, to obtain the necessary means to defray the sixteen dollars per diem allowance of the members of the legislature. In this state, no expense has been incurred, by any of the departments of government for services rendered.

The auditor's report will show, the amounts paid out, being almost exclusively for public improvements, or articles purchased for public use. And here permit me to remark, that in order to make the settlement of the pecuniary matters of the state more direct and feasible, I wish to direct your attention to the suggestions contained in that report, and recommend their adoption:—in defining the duties of all officers in any wise handling the public funds. In all time to come, it is to be hoped that that enlightened and wise policy will pervade our legislatures, which not requiring laws to restrain, will yet keep their appropriations and allowances within proper limits. The success of all governments depends upon their having power and ability to perform their various functions, and there is no surer way of crippling their energies and binding their exertions, than plunging them heedlessly and hopelessly into debt; it is far better to assess a tax at once, adequate to all the necessary expenditures of government, than permit an accumulation of indebtedness to harrass every department, and the consequent necessity of forced and temporary loans.

Under the fostering care of the government, the subject of education is fast assuming an importance that will reflect great credit upon our exertions. The board of chancellor and regents of the University have already established schools in various parts of the state, mostly however, without incurring any expense to the institution. The enlightened course pursued by that board, will unquestionably redound to the benefit of the institution, as well as to a general system of education, throughout the state; and must certainly meet with your cordial approval, and warmest encouragement. The situation selected for educational purposes upon the eastern side of the city, will probably be enclosed the ensuing

winter; and suitable buildings erected as soon as the necessary funds can be obtained for that purpose.

In extending, and making new settlements, one uniform course has been recommended; that of building and settling in forts in the first instance, and farming in one enclosure. This course has proven highly successful;—nevertheless, we have been compelled, in order to sustain ourselves and our settlements, to make two expeditions against the native tribes; one against the Timpanogos last February, of which you were informed; the other against a portion of the Shoshones, in September last. This last expedition was conducted strictly upon the defensive, and every effort made to attain to a peaceful adjustment of all difficulties unfortunately existing. The Indians having fled, were not encountered by our detachment, but recent reports seem favorable to a peaceful termination.

All the Indians with whom we have had difficulties, are detached or broken off bands from the main tribes; with them, our peaceful relations have never been interrupted.—We have spared no time or expense in endeavoring to conciliate the Indians, and learn them to leave off their habits of pilfering and plundering, and work like other people; but habits of civilization seem not to be in accordance with their physical formation; many that have tried it, pine away, and unless returning to their former habits of living, died in a very short time. Could they be induced to live peaceably and keep herds of cattle, their condition would very materially be ameliorated, and gradually induce a return to the habits of civilization.

It becomes us to be prepared to repel sudden invasions as they generally come at an unexpected moment. To this end I would recommend a more efficient organization of the militia, and strict requirements of officer's reports, and uniform distribution of public service; also, that sufficient means be appropriated to defray the expenses of repairing and housing the public arms, ordnance, &c., and purchasing supplies of camp equipages, baggage, waggons, and teams.

Unparalleled in the history of the times, not a solitary case was reported for trial, before the regular sessions of either the county or supreme courts, during the past year; and no offence beyond the control of a justice of the peace seems to have been committed.—This argues favorably in behalf of justice's courts having extended jurisdiction, and probably, is partly owing to the requirements of the law, making it the duty of all officers to seek to allay and compromise differences, instead of promoting litigation.

It is highly necessary that a court of probate should be organized, or else the duties of probate courts and public administrator be devolved upon some office now organized.—The stray pound, enclosures, and herding, are each of them subjects requiring your most careful attention, being fruitful sources of complaint,

and liable to terminate in litigation. General laws, specific in their nature, should be passed upon the subject, at as early a day as practicable.

The Bath House, near the Warm Springs, is now completed, and will, it is confidently believed, ere long, become a source of revenue to the state.

It is highly desirable that the capitalists of this state should introduce machinery for the manufacturing of all kinds of machinery, that will hereafter be wanted for factories, &c., also stoves, and other articles of heavy exportation should be manufactured by our own enterprise and industry. Incalculable benefits would result to this community, if they would engage in almost every kind of manufacture, not only iron, but paper, books, woollen cloth, leather, crockery, stone-ware, and sugar. Upon this last named article I will submit a single estimate for your consideration. Not more than twenty thousand persons would use 456,250 pounds, allowing only one ounce a day to each person; the expense of the transportation alone, at the low rate of ten cents a pound, would amount to \$45,625; a sum adequate to construct the most extensive sugar manufactory; and when considered in connection with the superior quality of the beet, and facility with which it can be raised in these valleys, renders it most suicidal policy for us to be dependent upon other than our own resources for that article.

In the neighborhood of what has usually been termed Little Salt Lake (now Iron county,) our exploring party of last winter, discovered inexhaustible beds of the very best of iron ore. A settlement is now being made at that point.

There is no doubt but that the demand and price consequent upon the distance of any successful competition, will prove sufficient inducement for the capitalists to invest their means, in whatever will necessarily prove a safe investment and ensure an abundant return; any and all kinds of encouragement, by throwing around them an energetic and efficient government, should unquestionably be given. It is wisdom to let capital be associated in infant settlements, because there is a necessity for it, for a time; but to lay the foundation for monied capitalists to monopolize against labor, is no part of my policy, politics, or religion. To encourage enterprise in constructing works of magnitude, it may be well to grant privileges; but they should be so guarded, as to be made amenable to the power granting them, at all times, for the abuse of the powers granted, or diverting them to any other object than the one designed.

From this city, a railroad will most probably be constructed to Iron county, as also continuously to Southern California, terminating at San Diego. Whatever encouragement you may find it in your power to extend to an object so full of interest to our

citizens, I shall most readily acquiesce therein, being within the range of my constitutional duties.

Friends, I feel it a privilege, which I believe I appreciate, in having the opportunity I now enjoy, of addressing you upon Governmental affairs.

There are many, very many causes, conspiring together, which make it a subject of deep fraught interest, to behold as I do this day, in this mountainous and desert land, (where three years since, were only found the wild, ferocious beast and roving savage,) senators and representatives congregated in a comfortable public building, which would do credit to any state of a free, enlightened, and happy people. It is a subject of congratulation to me, to you my friends, and to the world, that the all-wise disposer of human events has so decreed in His providence that the desert and the solitary place shall be made glad, that the area of human freedom shall be extended, and civilization shall rear her habitations amid the silence of the eternal hills, the mighty forests, and lonely islands of the sea. It is this that has peopled the Atlantic slope of our mountains, furnishing the world with this vast republic of nations, and is now gathering in her fist a few more, to throw over to the Pacific slope, as a counterpoise to trim her otherwise unequally balanced ship of state.

DESERET is not yet three years old, and yet such has been the rapidity of her growth, the extent of her improvements, and the development of her resources, as to command the admiration, and the respect of all whose lot has been cast within her bounds, and those afar off, hearing the glad tidings, are stretching forth their itching palms towards another of those free states where the oppressed go free, and the poor, through ordinary industry, find ample provision.

Forgive a single allusion to the past. The oppressed became the oppressor, and the oppressed again go forth to form new communities, new settlements, and new governments. Hence are we here, amid these vast mountains and solitary plains; hence are we here, assembled in solemn council to frame laws for the organization and rule of communities; and, what gives zest to the picture, devise such laws and regulations as shall perpetuate, guarantee, and sustain, in time to come, our free and glorious institutions to the latest generation.

Friends, in all your deliberations, I shall be happy to participate, so far as it shall be my privilege, and hoping that unanimity and zeal, wisdom and intelligence, may characterize your exertions for the public good the ensuing session, that when you return, you may be enabled to carry with you the proud conviction of having faithfully discharged your duty to your country and yourselves, is the prayer of

Your co-laborer,
BRIGHAM YOUNG.

ORDINANCES.

PASSED BY THE GENERAL ASSEMBLY OF THE
STATE OF DESERET

AN ORDINANCE, to provide for the organization of Iron County. Passed, Dec. 3, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that all that portion of country, lying in the southeast corner of the Great Basin; and being south of the divide between Beaver Creek and the Sevier River, and east of the Desert Range, extending south to the rim of the Basin, and east to the Wasatch Range of mountains; be and the same is hereby known and designated "Iron County."

Sec. 2. The Chief Justice of said County, is hereby appointed and authorized to organize said County. He shall cause notices of election to be made, and receive and open the returns of said election; qualify the officers elected according to law; approve of, and file their bonds in his office; and make return of his proceedings therein, as soon as practicable, being prior to the first day of June next.

Sec. 3. All officers elected and qualified under the provisions of this ordinance, shall hold their offices until superceded by due course of law. This ordinance to be in force from and after its passage, any law or ordinance to the contrary notwithstanding.

JEDEDIAH M. GRANT,

Speaker of the House of Representatives.

HEBER C. KIMBALL,

Speaker of the Senate.

Approved, Dec. 9, 1850, BRIGHAM YOUNG, Gov.

Thomas Bullock, Clerk.

AN ORDINANCE, for the purpose of controlling the wood and timber; in the first Kanyon south of Mill Creek.

Passed, December 4, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that James Rawlins [James H. Rollins?] is hereby granted the exclusive privilege of making a road, and controlling the wood and timber in the first Kanyon south of Mill Creek Kanyon.

Sec. 2. Be it further ordained, that said James Rawlins is authorized to charge not to exceed twenty-five cents per load for wood, or timber, hauled out of said Kanyon; on condition that said Rawlins shall keep in good order a road into said Kanyon, and see that the timber and wood in said Kanyon are not wasted.

Sec. 3. Be it further ordained, that said Rawlins shall not

receive toll on said road, or Canyon, after he shall have received the amount by toll which he may have expended in time, and means to open said Canyon, and keeping said road in repair; and that the said Rawlins is required to make out an annual report of receipts and expenditures on said Canyon, and report them to the Auditor of Public Accounts, on the first day of November in each year.

JEDEDIAH M. GRANT,

Speaker of the House of Representatives.

HEBER C. KIMBALL,

Speaker of the Senate.

Approved, Dec. 9, 1850, BRIGHAM YOUNG, Gov.

Thomas Bullock, Clerk.

AN ORDINANCE, to control the waters of the Twin Springs, and Rock Spring, in Tooele Valley, and County; for mills and irrigating purposes.

Passed, December 4, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that Ezra T. Benson is hereby granted the exclusive privilege of controlling the waters in Tooele Valley, Tooele County, known as the Twin Springs; also the waters that issue from a Spring called the Rock Spring, in said Valley and County, for mills and irrigating purposes.

JEDEDIAH M. GRANT,

Speaker of the House of Representatives.

HEBER C. KIMBALL,

Speaker of the Senate.

Approved, Dec. 9, 1850, BRIGHAM YOUNG, Gov.

Thomas Bullock, Clerk.

AN ORDINANCE, for the encouragement of stage lines being established.

Passed, Dec. 4, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that James A. Little, John M. Lytle, Horace S. Eldredge, George D. Grant, and Ferrymore [Feramorz] Little; have the entire control, and management of the stage route, from Ogden City and the settlements north, through Great Salt Lake City, Provo City, and Manti, to the County Seat of Iron County; and as soon as practicable, continuously, to intersect a stage route from Cahoon [Cajon] Pass, and San Diego in South California.

Sec. 2. The aforesaid persons, under the name and style of James A. Little & Co., are hereby constituted a body corporate, to carry into execution the aforesaid enterprise, and with power to sue and be sued, plead and be impleaded, defend and be defended,

in any Court of law or equity, whatsoever; and shall continue with full powers with the aforesaid privileges, for the term of twenty years, next ensuing from the first day of January, 1851.

Sec. 3. In condition of the above privileges, the said Company are hereby required to put upon the routes aforesaid from Ogden City, or the northern settlements in the State of Deseret, by way of Great Salt Lake City, Provo and Manti Cities, terminating at the County Seat of Iron County; good and suitable stages or carriages, and animals the ensuing season, commencing as soon as practicable in the Spring, and for the first year pass the routes in each direction once a month; the second year, semi-monthly; and after that, weekly; having the privilege of passing the routes, or any part of them, oftener, if the Company see proper, or public necessity require it.

Sec. 4. The said Company shall furnish teams adequate to the service, with steady and experienced drivers; and have the privilege of receiving not exceeding ten cents per mile for each passenger, with baggage not to exceed ten pounds weight; which may hereafter be increased at the discretion of the Legislature; and shall use due diligence to convey passengers and packages safe, and speedy, to their destination; and moreover, be responsible in all cases for carelessness or neglect of duty of any one of the Company, or any person in their employ.

Sec. 5. The said Company shall also have the privilege of receiving not exceeding ten cents per pound per hundred miles, for any extra baggage, or packages, weighing one pound and upwards; and shall keep books at each station, in which they shall enter the names of the passengers, where from, and their destination; as also a correct account of baggage, or packages sent, the price, &c.—and accompanying the same with a way-bill from each station, in which shall be entered the aforesaid particulars.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.

HEBER C. KIMBALL,
Speaker of the Senate.

Approved, Dec. 9, 1850, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

TO THE GENERAL ASSEMBLY OF THE STATE OF DESERET:

Gentlemen:—The undersigned, humbly prays your Honorable Body to grant unto him the exclusive control over the timber, rocks, minerals and water, in the City Creek Kanyon, as far as

your jurisdiction extends; in order that the water may be continued pure unto the inhabitants of Great Salt Lake City; and he agrees to pay into the Treasury of the State, such sum as shall be an equivalent for the timber, rocks, and minerals, between the dividing ridges running down to said Creek, as shall be the valuation of the same; to be decided by a Committee of three, or such other Committee as shall be agreed upon by your Honorable Body.

And your petitioner will ever pray, that justice and judgment may be in you all continually. BRIGHAM YOUNG.

G. S. L. City, November 23, 1850.

AN ORDINANCE, granting the petition of Brigham Young.

Passed, Dec. 4, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that the petition of Brigham Young, praying for the privilege and control of City Creek, and Canyon; be granted as set forth in said petition. And, that he pay into the Public Treasury the sum of five hundred dollars therefor.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.

HEBER C. KIMBALL,
Speaker of the Senate.
Approved, Dec. 9, 1850, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, in relation to building a bridge across the Jordan River.

Passed, Dec. 5, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that the State Commissioner is hereby authorized to let a contract for building a toll bridge, across the Jordan River, at or near Smith and Gardiner's mills on said river; if, in his opinion, the public good requires it, upon such terms and regulations as he shall see proper, and make report of his doings herein, to the Auditor of Public Accounts, on or before the first Monday in October next.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.

HEBER C. KIMBALL,
Speaker of the Senate.
Approved, Dec. 9, 1850, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, appointing an Assessor and Collector, and assessing the County and State tax for the year 1851.

Passed, January 6, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that a tax of two cents upon each dollar's worth of taxable property, in this State, be assessed and collected for the year 1851.

Sec. 2. The Assessor and Collector is hereby authorized and required to collect all delinquent taxes.

Sec. 3. All property and money not otherwise exempt by law being in said State, for the term of three months next preceding said assessment, shall be liable to taxes; and no merchant, or other person having goods or merchandize to sell, shall be permitted to offer the same for sale, without first securing the right, by paying the aforesaid assessment, without regard to the aforesaid specified term of three months.

Sec. 4. Horace S. Eldredge, of Great Salt Lake City, is hereby appointed to assess and collect the taxes, for the State of Deseret, for the year 1851; and he is hereby required to make his returns to the Auditor of Public Accounts, on or before the first day of November next.

Sec. 5. It shall be the duty of the Assessor and Collector, to carry out in separate columns, opposite their respective names, the road tax of each County, and deposit the same with the County Clerk of their respective Counties.

JEDEDIAH M. GRANT,

Speaker of the House of Representatives.

HEBER C. KIMBALL,

Speaker of the Senate.

Approved, Jan. 9, 1851, BRIGHAM YOUNG, Gov.

Thomas Bullock, Clerk.

AN ORDINANCE, granting Little Cottonwood Canyon, to Benjamin L. Clapp and Charles Drown.

Passed, Jan. 7, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that the exclusive right to control the waters in Little Cottonwood Canyon, is hereby granted to Benjamin L. Clapp and Charles Drown, for mill purposes.

Sec. 2. Said Clapp and Drown are required to make and keep in good repair, a road into said Canyon, to the acceptance of the State Commissioner of roads.

Sec. 3. After said road has been accepted, they (the said Clapp and Drown) may charge not to exceed twenty-five cents per load, for wood and poles that may be taken from the Canyon, over said road.

Sec. 4. Said Clapp and Drown are required to keep an accurate account of all receipts and expenditures on said road, and report the same to the Auditor of Public Accounts, on or before the first day of November annually.

Sec. 5. Whenever the reports to the Auditor of Public Accounts, shall show that the receipts have cancelled the expenditures on said road, it shall be free to the public.

Sec. 6. Said Clapp and Drown may have exclusive control of the timber, to supply a saw mill that they may erect on said Creek.

Sec. 7. Nothing herein contained, shall be so construed as to prevent the waters of said Creek, to be used for irrigating purposes when necessary.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.
HEBER C. KIMBALL,
Speaker of the Senate.
Approved, Jan. 9, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, granting the waters of North Mill Creek Canyon, and the waters of the next Canyon north, to Heber C. Kimball.

Passed, Jan. 8, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that Heber C. Kimball, have the exclusive privilege of conveying the waters of North Mill Creek Canyon, and the waters of the Canyon next north, to wit:—about half a mile distant, to some convenient point below the mouth of the two Canyons, and of appropriating the same to the use of a saw mill, grist mill, and other machinery.

Sec. 2. Nothing herein contained shall prevent the waters aforesaid, from being used, whenever and wherever it is necessary for irrigating.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.
HEBER C. KIMBALL,
Speaker of the Senate.
Approved, Jan. 9, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, to incorporate Great Salt Lake City.

Passed, January 9, 1851.*

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that all that district of country embraced in the follow-

*See text, note 103.

ing boundaries, to wit:—beginning at the south-east corner of the Church Pasture, about half a mile north of the Hot Spring; thence west to the west bank of the Jordan River; thence south, up the west bank thereof, to a point in said bank, directly west from the south-west corner of the five acre lots, south of said City; thence east to the aforesaid south-west corner of said five acre lots, and along the south line thereof; thence east to the base of the mountains; thence directly north to a point directly east of the south-east corner of the Church Pasture; thence west to the place of beginning:—including the present surveys of said City, shall be known and designated as Great Salt Lake City; and the inhabitants thereof, are hereby constituted a body corporate and politic, by the name aforesaid—and shall have perpetual succession, and may have, and use a *common seal*—which they may change and alter at pleasure.

Sec. 2. The inhabitants of said City, by the name and style aforesaid, shall have power to sue and be sued; to plead and be impleaded; defend and be defended; in all Courts of law and equity; and in all actions whatsoever, to purchase, receive, and hold property, real and personal, in said City; to purchase, receive, and hold real property beyond the City, for burying grounds, or other public purposes, for the use of the inhabitants of said City; to sell, lease, convey, or dispose of property, real and personal, for the benefit of said City; to improve and protect such property, and to do all other things in relation thereto, as natural persons.

Sec. 3. There shall be a City council, to consist of a mayor, four aldermen, and nine counsellors; who shall have the qualifications of electors of said City, and shall be chosen by the qualified voters thereof, and shall hold their offices for two years, and until their successors shall be elected and qualified. The city council shall judge of the qualifications, elections, and returns of their own members, and a majority of them shall form a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members, under such penalties as may be prescribed by ordinance.

Sec. 4. The mayor, aldermen, and counsellors, before entering upon the duties of their offices, shall take and subscribe an oath or affirmation, that they will support the Constitution of the United States, and of this State; and that they will well and truly perform the duties of their offices, to the best of their skill and abilities.

Sec. 5. On the first Monday of April next, and every two years thereafter, on said day, an election shall be held for the election of one mayor, four aldermen, and nine counsellors; and at the first election under this ordinance, three judges shall be chosen, *viva voce*, by the electors present. The said judges shall choose two clerks; and the judges and clerks, before entering upon their duties, shall take and subscribe an oath or affirmation, such as is now required by law to be taken by judges and clerks of other elections;

and at all subsequent elections. The necessary number of judges and clerks shall be appointed by the City council. At the first election so held, the polls shall be opened at nine o'clock a. m., and closed at six o'clock p. m. At the close of the polls, the votes shall be counted, and a statement thereof proclaimed at the front door of the house, at which said election shall be held; and the clerks shall leave with each person elected, or at his usual place of residence, within five days after the election, a written notice of his election; and each person so notified, shall within ten days after the election, take the oath or affirmation herein before mentioned. A certificate of which oath shall be deposited with the recorder, whose appointment is herein after provided for; and be by him preserved. And all subsequent elections shall be held, conducted, and returns thereof made, as may be provided for by ordinance of the City council.

Sec. 6. All free white male inhabitants, who are of the age of twenty-one years, who are entitled to vote for State officers, and who shall have been actual residents of said City, sixty days next preceding said election, shall be entitled to vote for City officers.

Sec. 7. The City council shall have authority to levy and collect taxes for City purposes, upon all taxable property, real and personal, within the limits of the City, not exceeding one-half per cent per annum, upon the assessed value thereof; and may enforce the payment of the same, in any manner to be provided by ordinance, not repugnant to the Constitution of the United States, or of this State.

Sec. 8. The City council shall have power to appoint a recorder, treasurer, assessor and collector, marshall, and supervisor of streets. They shall also have the power to appoint all such other officers by ordinance, as may be necessary; define the duties of all City officers, and remove them from office at pleasure.

Sec. 9. The City council shall have power to require of all officers, appointed in pursuance of this ordinance, bonds with penalty and security, for the faithful performance of their respective duties, such as may be deemed expedient; and also to require all officers appointed as aforesaid, to take an oath for the faithful performance of the duties of their respective offices.

Sec. 10. The City council shall have power and authority to make, ordain, establish, and execute all such ordinances, not repugnant to the Constitution of the United States, or of this State, as they may deem necessary for the peace, benefit, good order, regulation, convenience, and cleanliness of said City,—for the protection of property therein, from destruction by fire or otherwise; and for the health and happiness thereof. They shall have power to fill all vacancies that may happen by death, resignation or removal, in any of the offices herein made elective; to fix and establish all the fees of the officers of said corporation, not herein established;

to impose such fines not exceeding one hundred dollars for each offence, as they may deem just, for refusing to accept of any office in or under the corporation, or for misconduct therein; to divide the City into wards, and specify the boundaries thereof, and create additional wards; to add to the number of aldermen and counsellors, and apportion them among the several wards, as may be just, and most conducive to the interest of the City.

Sec. 11. To establish, support, and regulate common schools; to borrow money on the credit of the City,—provided that no sum or sums of money be borrowed on a greater interest than six per cent per annum,—nor shall the interest on the aggregate of all the sums borrowed, and outstanding, ever exceed one-half of the City revenue, arising from taxes assessed on real estate within this corporation.

Sec. 12. To make regulations to prevent the introduction of contagious diseases into the City, to make quarantine laws for that purpose, and enforce the same.

Sec. 13. To appropriate and provide for the payment of the expenses and debts of the City.

Sec. 14. To establish hospitals, and make regulations for the government of the same; to make regulations to secure the general health of the inhabitants; to declare what shall be nuisances, and to prevent and remove the same.

Sec. 15. To provide the City with water; to dig wells, lay pump logs, and pipes, and erect pumps in the streets, for the extinguishment of fires, and convenience of the inhabitants.

Sec. 16. To open, alter, widen, extend, establish, grade, pave, or otherwise improve, and keep in repair, streets, avenues, lanes and alleys; and to establish erect and keep in repair aqueducts and bridges.

Sec. 17. To provide for the lighting of the streets, and erecting lampposts; and establish, support and regulate night watches; to erect market houses, establish markets and market places, and provide for the government and regulations thereof.

Sec. 18. To provide for erecting all needful buildings for the use of the City; and for enclosing, improving, and regulating all public grounds, belonging to the City.

Sec. 19. To license, tax and regulate auctioneers, merchants, and retailers, grocers and taverns, ordinaries, hawkers, peddlers, brokers, pawn-brokers, and money-changers.

Sec. 20. To license, tax and regulate hacking, carriages, wagons, carts and drays; and fix the rates to be charged for the carriage of persons, and for wagonage, cartage and drayage of property; as also to license and regulate porters, and fix the rates of portorage.

Sec. 21. To license, tax and regulate theatricals, and other exhibitions, shows and amusements.

Sec. 22. To tax, restrain, prohibit, and suppress tippling houses, dram shops, gaming houses, bawdy, and other disorderly houses.

Sec. 23. To provide for the prevention and extinguishment of fires; to regulate the fixing of chimneys, and the flues thereof, and stove pipes, and to organize and establish fire companies.

Sec. 24. To regulate the storage of gunpower, tar, pitch, rosin, and other combustible materials.

Sec. 25. To regulate and order parapet walls, and other partition fences.

Sec. 26. To establish standard weights and measures and regulate the weights and measures to be used in the City, in all other cases not provided for by law.

Sec. 27. To provide for the inspection and measuring of lumber, and other building materials; and for the measurement of all kinds of mechanical work.

Sec. 28. To provide for the inspection and weighing of hay, lime, and stone coal; measuring of charcoal, firewood, and other fuel, to be sold or used within the City.

Sec. 29. To provide for and regulate the inspection of tobacco, and of beef, pork, flour, meal; also beer, and whiskey, brandy, and all other spirituous or fermented liquors.

Sec. 30. To regulate the weight, quality, and price of bread, sold and used in the City.

Sec. 31. To provide for taking the enumeration of the inhabitants of the City.

Sec. 32. To fix the compensation of all City officers; and regulate the fees of jurors, witnesses, and others, for services rendered, under this, or any City ordinance.

Sec. 33. The City council shall have exclusive power within the City by ordinance, to license, regulate, suppress, or restrain billiard tables, or from one to twenty pin alleys; and every other description of gaming or gambling.

Sec. 34. The City council shall have exclusive power within the City by ordinance, to license, regulate, or restrain, the keeping of ferries, and toll bridges; to regulate the police of the City; to impose fines, forfeitures, and penalties, for the breach of any ordinance; and provide for the recovery of such fines and forfeitures; and the enforcement of such penalties, and to pass such ordinances as may be necessary and proper for carrying into effect and execution, the powers specified in this ordinance, provided such ordinances are not repugnant to the Constitution of the United States, or of this State.

Sec. 35. All ordinances passed by the City council, shall, within one month after they shall have been passed, be published in some newspaper, printed in said City, or certified copies thereof, be posted up in eight of the most public places in the City.

Sec. 36. All ordinances of the City may be proven by the seal of the corporation; and when printed or published in book or pamphlet form, purporting to be printed or published by the authority of the corporation; the same shall be received in evidence in all courts, or places without further proof.

Sec. 37. The mayor and aldermen, shall be conservators of the peace within the limits of the City; and shall have all the powers of justices of the peace therein, both in civil and criminal cases, arising under the laws of the State. They shall, as justices of the peace, within the limits of said City, perform the same duties, be governed by the same laws, give the same bonds and securities, as other justices of the peace, and be commissioned as justices of the peace, in and for said City, by the Governor.

Sec. 38. The mayor shall have exclusive jurisdiction in all cases, arising under the ordinances of the corporation, and shall issue such process as may be necessary to carry said ordinances into execution and effect. Appeals may be had from any decision or judgment of said mayor or aldermen, arising under the ordinances of said City, to the municipal court under such regulations, as may be presented by ordinance; which court shall be composed of the mayor, as chief justice, and the aldermen, as associate justices; and from the final judgment of the municipal court, to the county court of Great Salt Lake county, in the same manner as appeals are taken from justices of the peace; provided the parties litigant shall have a right to a trial by a jury of twelve men, in all cases before the municipal court. The municipal court shall have power to grant writs of Habeas Corpus, and try the same, in all cases arising under the ordinances of the City council.

Sec. 39. The municipal court shall sit on the first Monday of every month, and the City council, at such times and places as may be prescribed by City ordinance, special meetings of which may at any time be called by the mayor or any two aldermen.

Sec. 40. All process issued by the mayor, aldermen, or municipal court, shall be directed to the marshall, and in the execution thereof, he shall be governed by the same laws, as are or may be prescribed for the direction and compensation of constables in similar cases. The marshall shall also perform such other duties as may be required of him under the ordinances of said City; and shall be the principal ministerial officer.

Sec. 41. It shall be the duty of the recorder, to make and keep accurate records of all ordinances, made by the City council, and of all their proceedings in their corporate capacity; which record shall, at all times, be open to the inspection of the electors of said city, and shall perform all other duties, as may be required of him by the ordinances of the City council, and shall serve as clerk of the municipal court.

Sec. 42. When it shall be necessary to take private property for opening, widening, or altering any public street, lane, avenue, or alley; the corporation shall make a just compensation therefor, to the person whose property is so taken; and if the amount of such compensation cannot be agreed upon, the mayor shall cause the same to be ascertained by a jury of six disinterested men, who shall be inhabitants of the City.

Sec. 43. All jurors empanelled to enquire into the amount of benefits or damages, that shall happen to the owners of property so proposed to be taken, shall first be sworn to that effect, and shall return to the mayor their inquest in writing, signed by each juror.

Sec. 44. In case the mayor shall, at any time, be guilty of a palpable omission of duty, or shall wilfully and corruptly be guilty of oppression, mal-conduct, or partiality, in the discharge of the duties of his office, he shall be liable to indictment in the county court of Great Salt Lake county; and on conviction, he shall be liable to fine and imprisonment; and the court shall have power on the recommend of the jury to add to the judgment of the court, that he be removed from office.

Sec. 45. The City council shall have power to provide for the punishment of offenders and vagrants, by imprisonment in the county or city jail, or by compelling them to labor upon the streets, or other public works, until the same shall be fully paid; in all cases where such offenders or vagrants shall fail or refuse to pay the fines and forfeitures which may be recovered against them.

Sec. 46. The inhabitants of Great Salt Lake City shall, from and after the next ensuing two years, from the first Monday of April next, be exempt from working on any road or roads, beyond the limits of said City. But all taxes devoted to road purposes, shall, from and after said term of two years, be collected and expended by, and under the direction of the supervisor of streets, within the limits of said City.

Sec. 47. The mayor, aldermen, and counsellors of said City shall, in the first instance, be appointed by the Governor and Legislature of said State of Deseret; and shall hold their office until superceded by the first election.

Sec. 48. This ordinance is hereby declared to be a public ordinance, and shall be in force from and after its passage.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.

HEBER C. KIMBALL,
Speaker of the Senate.
Approved, Jan. 19, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, in relation to the timber in the mountains, west of Jordan.

Passed, Dec. 3, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that the exclusive control of the timber in the Kanyons on the east side of the range of mountains west of Jordan, in Great Salt Lake County, is hereby granted to George A. Smith, who is hereby authorized to control the timber in said Kanyons, to work roads into them; and to direct when, where, and by whom, timber may be taken out therefrom.

Sec. 2. Be it ordained, that any person getting timber from said Kanyons, shall be required to keep the roads clear, and to pay in labor, or otherwise, for the use of the private roads leading to the timber; and any person wasting, burning, or otherwise destroying the timber, shall be subject to all damages, and to a fine, not exceeding one hundred dollars, at the discretion of the court having jurisdiction.

Sec. 3. No person shall be allowed to cut timber in any place in these Kanyons, without permission from the proprietor, who is hereby authorized to give directions accordingly.

Sec. 4. Any person cutting timber or wood in the above Kanyons, and leaving it on the ground an unreasonable time, the proprietor of said Kanyons shall have the privilege to remove said wood and timber, and dispose of it; and the avails paid into the public treasury.

Sec. 5. Nothing in the above ordinance shall be so construed as to prevent, or hinder the citizens of said county from getting timber, wood, or poles, in any of said Kanyons, for their own use, by observing the above regulations.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.
HEBER C. KIMBALL,
Speaker of the Senate.

Approved, Jan. 9, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, in relation to the timber in the Kanyons and Mountains leading into Tooele Valley, and the Kanyons between Salt Lake Valley and Tooele.

Passed, Dec. 3, 1850.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that the exclusive control of the timber in the Kanyons and mountains leading into Tooele valley, and the Kanyons between Salt Lake valley and Tooele, is hereby granted to Ezra T. Benson,

who is hereby authorized to control said Kanyons, to work roads into them, and to direct when, where, and by whom, timber may be taken out therefrom.

Sec. 2. Be it ordained, that any person getting timber from said Kanyons, shall be required to keep the roads clear, and to pay in labor, or otherwise, for the use of the private roads leading to the timber; and any person wasting, burning, or otherwise destroying the timber; shall be subject to all damages, and to a fine not exceeding one hundred dollars, at the discretion of the court having jurisdiction.

Sec. 3. No person shall be allowed to cut timber, in any place in these Kanyons, without permission from the proprietor; who is hereby authorized to give directions accordingly.

Sec. 4. Any person cutting timber, or wood, in the above Kanyons, and leaving it on the ground, an unreasonable time; the proprietor of said Canyon shall have the privilege to remove said wood and timber, and dispose of it; and the avails paid into the public treasury.

Sec. 5. Nothing in the above ordinance shall be so construed as to prevent, or hinder the citizens of said counties from getting timber, wood, or poles, in any of said Kanyons, for their own use, by observing the above regulations.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.

HEBER C. KIMBALL,
Speaker of the Senate.

Approved, Jan. 9, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, in relation to county courts.

Passed, January 6, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that the county court shall hold, in their respective counties, a semi-annual session, commencing the first Monday of March next.

Sec. 2. The county court shall, at their March term or session, appoint the judges of election, and jurors for the then current and ensuing year, to hold over until their successors are appointed and qualified. The grand inquest for the county, for the next two ensuing regular sessions, and the petit jurors the next ensuing session; and the county court shall, at their October term, select the petit jurors for the next ensuing March session.

Sec. 3. It shall be the duty of the county court, at their March term, to take into consideration the situation of the affairs of the county; to settle with the commissioner, and the assessor and collector; assess the tax for the year ensuing, and generally to do and

perform the county business for the year: nevertheless, from and after the first term of said court, to be holden on the first Monday of March next, they shall have power to try causes, the same in all respects whatever, as is now provided in the act concerning the judiciary, passed January 9, 1850.

Sec. 4. It shall be the duty of the county clerk to settle with the commissioner, assessor and collector; and to show a correct exhibit of the fiscal affairs of the county, at the beginning of the March term; and to facilitate said settlement of the fiscal affairs of said county, it shall be the duty of all officers of said county, in any wise handling the public funds, and all persons having claims against said county, to make out and deliver into the hands of the county clerk, all claims against said county, on or before the first Monday of October in each year; and full and ample reports on or before the first Monday in December in each year.

Sec. 5. The county clerks shall make out and deliver into the hands of the county commissioner, abstracts from the assessor and collector's book of the road tax in their respective counties, in a line opposite the names against whom the same may be assessed, taking his receipt therefor; and it shall be the duty of the said commissioner to furnish one copy of the same to each supervisor of roads, of all the names in their respective districts.

Sec. 6. The county courts in their respective counties, from and after the current year, shall assess the county tax; and the same, together with the State tax, shall be assessed and collected by the county assessor and collector:—the county tax to be paid into the county treasury; and the State tax to be paid into the State treasury; and the county assessor and collector shall make a full and concise report, and return the same to the Auditor of Public Accounts, on or before the first Monday of November in each year; and shall moreover pay into the State treasury, all State funds collected by him semi-annually, on or before the first Monday in November as aforesaid; and on or before the first Monday in March in each year.

JEDEDIAH M. GRANT,

Speaker of the House of Representatives.

HEBER C. KIMBALL,

Speaker of the Senate.

Approved, Jan. 9, 1851, BRIGHAM YOUNG, Gov.

Thomas Bullock, Clerk.

AN ORDINANCE, in relation to a road tax, and Supervisors.

Passed, January 6, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that each and every able bodied male person over eighteen years of age, having a residence of three months in this

State, shall pay a poll tax of one day's labor yearly upon the roads or highways.

Sec. 2. All taxable property within this State, shall also be liable to a tax for road purposes, and may be assessed by the county court in each county, at their regular March term or session, in each year; provided they shall not assess a tax of more than half per cent, or at the rate of more than one day's labor for every three hundred dollars' worth of property.

Sec. 3. The poll tax and all assessment of tax for road purposes, may be paid in labor upon the roads and highways, at the rate of ten hours good, and faithful labor for each day assessed, or commute the same by paying into the hands of the county commissioner, or the supervisor of the precinct, in which he, she, or they do reside, one dollar and fifty cents for each and every day's labor so assessed.

Sec. 4. Each precinct shall be considered a road district, until otherwise ordered by the county court; and in all such precincts or road districts, where there is no supervisor, they shall appoint one, who shall hold his office until superseded by an election.

Sec. 5. It shall be the duty of the county commissioners in their respective counties, to open and keep in good repair all public roads and bridges, so far as the labor and means hereby devoted to road purposes will allow; and the supervisors of roads are hereby required to expend the labor and means of their respective districts for road purposes, under the direction and general superintendence of the said county commissioner, or pay over into his hands the residue of all means by them collected; and it shall be the duty of the county commissioner, to make out and deliver to the county court at their March term annually, a full and complete report of all sums, either in labor, money, or otherwise received by him, and the disbursements of the same.

Sec. 6. Any person liable to the aforesaid tax, who shall refuse or neglect to perform the labor herein required, or pay in lieu thereof the sum herein specified, when required by the supervisor of the district, or the county commissioner of their county after they have received reasonable notice of the time and place where said labor may be expended, or money paid, shall forfeit and pay for each offence twice the amount of the tax required, together with the costs of court, which amount may be recovered before any justice of the peace, or court having jurisdiction.

Sec. 7. It shall be the duty of the supervisors of road districts, to prosecute all delinquents in their respective districts, and for failing to do so, they shall be liable to pay twice the amount lost, by or through his or their neglect, and it is hereby made the duty of the county commissioner, to settle with each and every supervisor, on or before the first day of December in each year, and

prosecute all delinquent supervisors, before the county court, who refuse or neglect to comply with the requirements of this ordinance.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.

HEBER C. KIMBALL,
Speaker of the Senate.

Approved, Jan. 9, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, for establishing Probate Courts, and defining the duties thereof.

Passed, Jan. 16, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that a court of probate shall be organized in each county of this State, and consist of one judge, who shall be elected by joint vote of both Houses of the General Assembly, for the same time, and for the same term, as the chief justice for the county courts; and shall take an oath of office, and file a bond in the office of the clerk of the supreme court, for the faithful performance of his official duties, with approved securities, in the sum of ten thousand dollars; which bond may be increased when the court shall deem it necessary.

Sec. 2. The judge of probate shall have power to take the probate of wills, and grant administration of the estate, of all deceased persons, who were at the time of their decease, inhabitants of, or residents in the same county, and of all who shall die without the State or county, leaving an estate within such county; and also to appoint guardians to minors and others.

Sec. 3. The judge of probate shall have jurisdiction of all matters relating to the settlement of the estates of such deceased persons, minors, and others, under guardianship.

Sec. 4. Judge of probate shall have power to issue all warrants and processes necessary to carry into effect the powers granted in this ordinance.

Sec. 5. It shall be the duty of any sheriff, deputy, or constable, to serve and execute all warrants and processes, to them directed, by the judges of probate of the county in which said officer resides.

Sec. 6. Each judge of probate shall make out transcripts in case of appeals, and record in books kept for that purpose, all the orders and decrees of court; and also all wills proved in court, with the probate thereof; all letters testamentary and of administration, and of all warrants, reports, returns, accounts, and bonds; and all other judicial proceedings of the court, which ought to be recorded.

Sec. 7. The supreme court shall be the supreme court of

probate, and have appellate jurisdiction of all matters determinable by the respective judges of probate.

Sec. 8. Any person aggrieved by any order, denial, sentence, or decree of a judge of probate, may appeal therefrom to the supreme court; provided that such appeal is claimed, and notice thereof is given at the probate office, within twenty days from the date of the proceedings appealed from.

Sec. 9. After an appeal is claimed, and notice thereof given at the probate office, all further proceedings in pursuance of the order, sentence, or decree appealed from, shall cease until the determination of the supreme court of probate shall be had thereon; provided, that nothing herein contained, shall be so construed as to hinder the disposal, or otherwise securing of perishable property.

Sec. 10. Said court shall hold a session at the county seat of their respective counties, on the first Monday of each month.

Sec. 11. The chief justice of each county may be appointed probate judge, for their respective counties.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.

HEBER C. KIMBALL,
Speaker of the Senate.
Approved, Jan. 19, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, apportioning the representation of the State of Deseret.

Passed, Jan. 17, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that Great Salt Lake County shall be entitled to elect nine senators, and twenty representatives, to the General Assembly of said State. Davis county, one senator and two representatives; Weber county, two senators and four representatives; Utah county, two senators and four representatives; San-Pete county, one senator and two representatives; Iron County, one senator and two representatives; Tooele county, one senator and one representative. The foregoing apportionment shall continue until the census shall have been taken, when a new apportionment shall be made.

Sec. 2. It is hereby made the duty of the county clerks in their respective counties, to include in the election notices, all the offices which are to be filled, and issue a writ of election to the sheriff of the county, four weeks next preceding all or any regular election.

Sec. 3. The Sheriff shall post up, in at least eight public places in his county, copies of such notices, at least twenty days previous

to said election; and cause the same to be published in any newspaper in the county, if there be one.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.

HEBER C. KIMBALL,
Speaker of the Senate.

Approved, Jan. 19, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

CRIMINAL LAWS OF THE STATE OF DESERET.—

Passed, January 16, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that if any person or persons shall, with premeditated intent, unlawfully kill a human being, in this State, they shall be deemed guilty of murder, and on conviction of the same, before a court having jurisdiction thereof, shall suffer death.

Sec. 2. Be it further ordained, that if any person or persons shall be accessory to murder before the fact, he or they shall, on conviction thereof, suffer as the principal.

Sec. 3. Be it further ordained, that if any person or persons shall be accessory to murder after the fact, by aiding the accused in any manner to escape the ends of justice, they shall be deemed guilty of a high misdemeanor, and shall be fined, or imprisoned, or both, at the discretion of the court.

Sec. 4. Be it further ordained, that if any person or persons shall unlawfully kill a human being, in this State, without malice, either expressed or implied, during a sudden heat of passion, they shall be guilty of manslaughter, and on conviction thereof, be punished by imprisonment, or fine, or both, at the discretion of the court.

Sec. 5. Be it further ordained, that if any person or persons shall administer any drug, medicine, herb, root, acid, or any thing possessing poisonous qualities, with criminal intent, whereby any person or persons shall be poisoned thereby, and death ensues; they shall be guilty of murder, and on conviction thereof, shall suffer death.

Sec. 6. Be it further ordained, that if any person or persons shall administer poison as prescribed in the foregoing section, with criminal intent, and death does not ensue; they shall be deemed guilty of a high misdemeanor, and on conviction thereof, shall be fined, or imprisoned, or both, as the court may direct.

Sec. 7. Be it further ordained, that if any doctor, physician, apothecary, or any other person, shall give, communicate, or administer; or by their influence, counsel, advice, persuasion, suggestion, or by any means whatsoever, give or cause to be given, by themselves directly or indirectly, or through the aid or medium

of any other person or persons agency or means whatsoever, any deadly poison, whether animal, mineral, or vegetable; such as quicksilver, arsenic, antimony, or any mercurial, arsenical, or antimonial preparations therefrom; or cicuta, deadly night-shade, henbane, opium, or any of the diversified preparations therefrom; or any drugs, medicines, and other preparations, such as chloroform, ether, exhilarating gas, calculated in their nature to destroy sensibility, from any other poisonous minerals or vegetables, to any citizen of the State of Deseret, whether sick or well, old or young, man, woman, or child, under pretence of curing disease, or from any other real or pretended cause, influence, argument, or from any design or purpose whatsoever, without first explaining, fully, definitely, critically, simply, and unequivocally to the patient, and surrounding friends and relatives, such as father, mother, husband, wife, children, guardian, or others as the case may be, and in plain, simple, English language the specific nature, operation and design of said poison or poisonous preparation, about to be, or intended to be given, and procuring the unequivocal approval, approbation and consent of the patient, if of mature years and sound mind, and of the parents, guardians, or other friends, to the giving, administering, or communicating said poison so intended; said doctor, physician, apothecary, person or persons so administering said poison, without the full and free assent of said patient, and friends, shall be adjudged guilty of a high misdemeanor, and be punishable in any sum not less than one thousand dollars, and be imprisoned or confined to hard labor for any time not less than one year: and if the death of the patient or person, so receiving the poison as above specified, shall follow the taking the same, without being made acquainted with the nature thereof; then the doctor, physician, apothecary, person or persons so giving or causing to be given said poison, shall be adjudged guilty of manslaughter, or murder as the case may be, by any court having jurisdiction, and be punished according to ordinance for such crimes:—

Provided, that the administration of poisons, as specified in the foregoing section, and the penalties thereof, shall not attach to doctors, physicians, and apothecaries, having their own drugs, poisons, and medicines, accompanying, and administering to companies and individuals traveling through the State, the same not being citizens of the State; but all such doctors and companies so traveling, may administer to, and receive of their own drugs, poisons, or medicines, with good intent, on their own responsibility.

Sec. 8. Be it further ordained, that when the killing of a human being takes place unintentionally, as by accident; the slayer being engaged in doing a lawful act, the court, upon conviction of the fact, shall discharge the prisoner from further prosecution.

Sec. 9. Be it further ordained, that, if any person or persons

in the lawful defence, of their own life, or limb, or family, or their liberty, or his or their property, or in the defence of any public property, shall unavoidably take the life or lives of any person or persons, on proof of the same before the court; he, she, or they, shall be discharged from further prosecution.

Sec. 10. Be it further ordained, that when any person shall be found guilty of murder, under any of the preceding sections of this ordinance, and sentenced to die, he, she or they shall suffer death, by being shot, hung or beheaded.

Sec. 11. Be it further ordained, that, when any person or persons shall be found guilty of murder, and sentenced to die, as the penalty of that offence, by any court in this State having jurisdiction; the execution of the sentence shall be deferred, until a transcript of the proceedings and decision of said court, shall be furnished the executive of the State, and upon the acknowledgment of the receipt of the same to the clerk of the court having framed the judgment, and the acknowledgment of the same shall not be attended with a reprieve, commutation, or pardon; then, and in that case, the culprit shall suffer death, as the court may have directed.

Sec. 12. Be it further ordained, that if any person or persons shall, with criminal intent, set fire to, or cause the same to be done, to any building of any description, or to any fence, rick of grain, or hay, wagon, boat, vessel, raft, bridge or any description of property whatever, they shall be deemed guilty of a high misdemeanor, and upon conviction thereof, he, she, or they, shall be fined or imprisoned, or both, at the discretion of the court; and, if any person or persons shall set fire to any prairie or kanyon of timber, they shall, on conviction thereof, be guilty of a high misdemeanor, and shall be adjudged to pay all damages accruing thereby, and be fined or imprisoned, or both, at the discretion of the court.

Sec. 13. Be it further ordained, that if any person or persons shall unlawfully break into, or enter the yard or dwelling of any person, or into their enclosure, or wagon, boat, vessel, or tent, with a criminal intent of any kind; they shall be fined or imprisoned, or both, at the discretion of the court.

Sec. 14. Be it further ordained, that if any person shall swear falsely, with evil design, pertaining to any case in issue before any court, on conviction thereof, they shall be deemed guilty of perjury; and he or she shall be fined or imprisoned, or both, as the court may direct; and if any person or persons shall hire, or cause by any means whatsoever, any person to swear falsely in any case in issue before any court; they shall, on conviction thereof, be deemed guilty of perjury, and shall suffer the same penalty.

Sec. 15. Be it further ordained, that if any person or persons shall commit a forgery, by making or altering any instrument of

writing, or signature, or bank note, to the prejudice or injury of another, he, she, or they, on conviction thereof shall be fined or imprisoned, or both, as the court may direct.

Sec. 16. Be it further ordained, that if any person or persons shall make any spurious coin, of any kind, or shall knowingly have it in possession with an intent to pass, or shall be accessory to the same, or shall knowingly pass any counterfeit or illegal coin, to the injury of any person or persons, they shall, on conviction thereof, suffer fine and imprisonment, as the court may direct.

Sec. 17. Be it further ordained, that if any person shall fight a duel in this state, or shall go beyond the limits of this State, for the purpose of fighting a duel, and death shall ensue in consequence thereof, to either party; the surviving party shall be deemed guilty of murder, and punished accordingly.

Sec. 18. If any person in this State, shall send, accept, or knowingly bear a challenge for a duel, or meet for the purpose of fighting a duel, or be accessory thereto, or leave the State for that purpose, being residents of this State, shall, on conviction thereof, be deemed guilty of a high misdemeanor, and shall be fined or imprisoned, or both, at the discretion of the court.

Sec. 19. Be it further ordained, that if any person or persons shall swear, by the name of God, or Jesus Christ, in any manner using their names profanely, shall, for each offence, pay the sum of not less than five dollars, or be imprisoned at the discretion of the court.

Sec. 20. Be it further ordained, that if any two or more persons shall assemble themselves together, in any disorderly manner, and disturb the peace, or molest the persons or property of any individual, or any passer by, or attempt the same; they shall be arrested forthwith by any of the officers of this State, or by any citizen if no officer is present, and they shall be deemed guilty of riot, and, on conviction thereof, be fined or imprisoned at the discretion of the court.

Sec. 21. Be it further ordained, that for an illegal trespass on the rights of another, the person so offending, on conviction thereof, shall be bound to make full restitution, and be fined or imprisoned, or both, at the discretion of the court.

Sec. 22. Be it further ordained, that if any person or persons shall have, or attempt to have a sexual intercourse with any of the brute creation, on conviction thereof, they shall be deemed guilty of a high misdemeanor, and be fined or imprisoned, or both, at the discretion of the court.

Sec. 23. Be it further ordained, that if any man or boy shall have, or attempt to have, any sexual intercourse with any of the male creation, on conviction thereof, they shall be deemed guilty of Sodomy, and be fined or imprisoned, or both, as the court may direct.

Sec. 24. If any man shall have sexual intercourse with any female not his wife, or shall seduce any female; or any person being accessory to the same, shall, on conviction thereof, be subject to imprisonment and hard labor not exceeding five years, and private damages, and a fine not exceeding five thousand dollars, at the discretion of the court; and any female seducing, or unlawfully cohabiting with a male, shall receive the same punishment.

Sec. 25. Be it further ordained, that if any man or boy shall force a woman or girl, to a sexual intercourse, or attempt the same with them, on conviction of the fact to the court, he shall be fined or imprisoned, or both, as the court may direct.

Sec. 26. Be it further ordained, that if any person or persons shall use any means by which an untimely birth of any child shall be had, or any pregnant woman shall be delivered, by which the death of one or either may be produced, unless the same shall be proven to have been done for the purpose of preserving the life of the mother, they shall be deemed guilty of murder, and upon conviction thereof, suffer the penalty as provided in the first section of this ordinance.

Sec. 27. Be it further ordained, that if any person or persons shall commit a robbery, by forcibly taking from the possession of another, any species of property, they shall, on conviction thereof, be fined or imprisoned, or both, at the discretion of the court.

Sec. 28. Be it further ordained, that if any person or persons shall steal any species of property whatever, or be accessory thereunto, he, she, or they shall, on conviction thereof, pay four fold, and be fined or imprisoned, or both, at the discretion of the court.

Sec. 29. Be it further ordained, that if any person or persons shall assault in any manner whatsoever, any person, or strike the same with an intent to maim them, in any manner, or injure any person, they shall, on conviction thereof, pay all damages sustained, and be fined or imprisoned, or both, at the discretion of the court.

Sec. 30. Be it further ordained, that if any officer in this State shall accept any bribe, by which he becomes a delinquent in the discharge of his duty, on conviction thereof, he shall forfeit his office, and ever after be incapacitated to hold any office in this State; and be fined or imprisoned, or both, at the discretion of the court.

Sec. 31. Be it further ordained, that if any person shall attempt to take forcibly any person from this State into another illegally, he shall, on conviction thereof, be fined or imprisoned, or both, at the discretion of the court.

Sec. 32. Be it further ordained, that if any person shall, through malice or revenge, cause any person to be illegally imprisoned, they shall, on conviction thereof, pay all damages to the person so imprisoned, and be fined or imprisoned, or both, at the discretion of the court.

Sec. 33. Be it further ordained, that if any person or persons shall, by deception, defraud another out of any money or species of property, they shall, on conviction thereof, be liable to restore four fold, and be fined or imprisoned at the discretion of the court.

Sec. 34. Be it further ordained, that the foregoing ordinance be in force from and after its passage.

JEDEDIAH M. GRANT,

Speaker of the House of Representatives.

HEBER C. KIMBALL,

Speaker of the Senate.

Approved, Jan. 19, 1851, BRIGHAM YOUNG, Gov.

Thomas Bullock, Clerk.

AN ORDINANCE, pertaining to North Cottonwood Canyon.—

Passed, Jan. 15, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that Willard Richards have the exclusive right of working a road or roads into, or through the North Cottonwood Canyon, and control the same.

Sec. 2. Be it further ordained, that all contracts and acts pertaining to the price of lumber and rates of toll, as set forth in the petition, and granted unto Willard Richards in 1849, pertaining to North Cottonwood Canyon is hereby repealed.

JEDEDIAH M. GRANT,

Speaker of the House of Representatives.

HEBER C. KIMBALL,

Speaker of the Senate.

Approved, Jan. 19, 1851, BRIGHAM YOUNG, Gov.

Thomas Bullock, Clerk.

AN ORDINANCE, in relation to the Militia of the State of Deseret.

Passed, Jan. 17, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that this State be divided into military districts, as follows; to wit:—The counties of Box-elder, Weber, Tooele, Utah, San Pete, and Iron, and all other counties that shall hereafter be organized into counties, shall each be a regimental district, and shall each be divided into company districts by the commandants of regiments; or in case there is no regiment, the commandants of battalions; and in case there is no battalion, then by the commandants of companies, in their respective districts, into company districts; and where there is no company, then the major general shall issue orders to some citizens, to organize said district.

Sec. 2. Great Salt Lake County shall be divided into two military districts: the first including all north from a line running east and west to the limits of said county; from the south line of Great Salt Lake City, and all south of said line, in said county, shall be the second district;—and it shall be the duty of the colonels of the first regiment of the first and second cohorts, to proceed immediately and divide into company districts, the aforesaid first and second districts of Great Salt Lake County.

Sec. 3. It shall be the duty of the officers respectively, hereby required to district into company districts, the aforesaid regimental districts, to proceed immediately to perform the same, and make report thereof to the adjutant general's office in G. S. L. City, as soon as practicable, being prior to the first day of June next.

Sec. 4. It shall be the duty of the commandants of companies, of battalions, and of regiments, in their respective districts, to enroll, and cause to be enrolled, in their respective companies or commands, the names of all and every person within the bounds, or who shall afterwards have come into the bounds of their respective districts to reside, being liable to perform military duty.

Sec. 5. In all such districts, all persons subject to military duty, shall be enrolled in the company of said district; provided, that said person or persons do not belong to, and do perform military duty in some other company, and produce a certificate of his enrollment from the captain of said company, that he or they may have joined by voluntary enrollment, and in case so many shall have joined by voluntary enrollment, some other company as aforesaid, so as not to leave a sufficient number in the said company district; then and in that case, two or more of said districts may be attached for the purpose of making up said company, until such time as said districts shall be able to furnish a sufficient number to constitute a company therein.

Sec. 6. It shall be the duty of the commandants of companies, to make out and deliver into the hands of the colonels of their respective regiments, a full, complete, and ample report of the number of men, number of arms, description thereof, amount of ammunition, and condition thereof, within five days after every company muster, together with a list of all who may have been delinquent at such muster. They shall also, in like manner, make due return of their respective companies, at all musters as herein provided.

Sec. 7. It shall be the duty of the commandants of companies, and of regiments, and of cohorts, and the commandants of the Legion in their respective commands, to carry into effect the militia laws of the State, and see that all delinquents, or delinquent officers, and officers having the collection of fines or forfeitures, do perform their duties respectively; and if any officer, whose duty it is to collect fines and forfeitures, shall neglect or fail in the discharge

of his duty, he shall be liable before a court martial, for neglect of duty; and may be liable for all sums lost in consequence of his failure or neglect, and to be cashiered at the discretion of the court.

Sec. 8. The quartermaster and commissary of the Legion, shall make out reports of all sums by them received and expended: as well as the amount contracted, as soon as practicable after each campaign or expedition; and return the same to the adjutant general's office; as also a full and ample report of all the expenditures of that nature, on or before the first day of November in each year.

JEDEDIAH M. GRANT,

Speaker of the House of Representatives.

HEBER C. KIMBALL,

Speaker of the Senate.

Approved, Jan. 19, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, to incorporate Ogden City.*

Passed, February 6, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that all that district of Weber county embraced in the following boundaries, to wit:

Beginning at the base of the mountain due east of the present mill dam on Weber river, and running due west to the south end of said mill dam; thence continuing the same a due west course to a point due south of the confluence of the Weber and Ogden rivers; thence due north to the confluence of the said rivers to a point due west of the mouth of Ogden-hole Canyon; thence east to the mouth of Ogden-hole Canyon; then in a southerly direction, along the base of the mountain to the place of beginning; shall be known and designated under the name and style of Ogden City; providing the said City council shall have the jurisdiction over, and control of the water and timber adjacent upon said streams, from the mouth of the Ogden and Weber river Kanyons to the western boundary of said City.

* * * * *

Sec. 46. The inhabitants of Ogden City shall, from and after the next ensuing two years from the first Monday of April next, be exempt from working on any road or roads beyond the limits of said city; but all taxes devoted to road purposes shall, from and after said term of two years, be collected and expended by, and under the direction of the supervisor of streets, within the limits of said city.

*For the deleted sections, 2-45, see the Great Salt Lake City charter.

Sec. 47. This ordinance is hereby declared to be a public ordinance, and shall be in force from and after its passage.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.

HEBER C. KIMBALL,
Speaker of the Senate.
Approved, Feb. 6, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, to incorporate the City of Manti.*

Passed, February 6, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that all that portion of the county of San Pete, which lies in the following boundaries, to wit:

Beginning at the Warm Spring (about two miles) south of the present city plat in said county; thence west to the west bank of San Pete creek; thence north and north-east along the west bank of said creek to a point due west of the mouth of Willow creek canyon; thence east to the mouth of Willow creek canyon; thence due south to a parallel line due east of the aforesaid Warm Spring; thence west on said line to the place of beginning—including the survey of said plat,—shall be known and designated as the city of Manti; and the inhabitants thereof are hereby constituted a body corporate and politic, by the name aforesaid; and shall have perpetual succession, and may have and use a common seal, which they may change and alter at pleasure.

* * * * *

Sec. 46. The inhabitants of the city of Manti shall, from and after the next ensuing two years from the first Monday of April next, be exempt from working on any road or roads beyond the limits of said city; but all taxes devoted to road purposes shall, from and after said term of two years, be collected and expended by, and under the direction of the supervisor of streets, within the limits of said city.

Sec. 47. This ordinance is hereby declared to be a public ordinance, and shall be in force from and after its passage.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.

HEBER C. KIMBALL,
Speaker of the Senate.

Approved Feb. 6, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

*For the deleted sections, 2-45, see the Great Salt Lake City charter.

AN ORDINANCE, to incorporate Provo City.* Passed February 6, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that all that district of country embraced in the following boundaries, in Utah county, to wit:—

Commencing two miles south from the present survey of the city of Provo, at the edge of Utah lake; thence east to the mountain; thence northerly with the mountain to the north bank of the Provo river; thence west to the said lake; thence southerly along the edge of the lake to the place of beginning,—shall be known and designated under the name and style of Provo City; and the inhabitants thereof are hereby constituted a body corporate and politic, by the name aforesaid; and shall have perpetual succession and may have and use a common seal, which they may change and alter at pleasure.

* * * * *

Sec. 46. The inhabitants of Provo City shall, from and after the next ensuing two years from the first Monday of April next, be exempt from working on any road or roads beyond the limits of said city; but all taxes devoted to road purposes shall, from and after said term of two years, be collected and expended by, and under the direction of the supervisor of streets, within the limits of said city.

Sec. 47. This ordinance is hereby declared to be a public ordinance, and shall be in force from and after its passage.

JEDEDIAH M. GRANT,

Speaker of the House of Representatives.

HEBER C. KIMBALL,

Speaker of the Senate.

Approved, Feb. 6, 1851, BRIGHAM YOUNG, Gov.

Thomas Bullock, Clerk.

AN ORDINANCE, to incorporate Parowan City, in Iron County.* Passed, February 6, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that all that district of country in Iron county, in this State, beginning at the dam, above the sawmill, in the mouth of the kanyon, on Centre creek, and running from thence north-east along the base of the mountain two miles; thence north three miles; thence west six miles; thence south to the base of the mountain; thence along the base of the mountain in a north-easterly direction, to the place of beginning,—including the present location,—shall be known and designated as Parowan City, and the inhabitants thereof are hereby constituted a body corporate and politic, by the

*For the deleted sections, 2-45, see the Great Salt Lake City charter.

name aforesaid, and shall have perpetual succession, and may have and use a common seal, which they may change and alter at pleasure.

* * * * *

Sec. 46. The inhabitants of Parowan City shall, from and after the next ensuing two years from the first Monday of April next, be exempt from working on any road or roads beyond the limits of said city; but all taxes devoted to road purposes shall, from and after said term of two years, be collected and expended by, and under the direction of the supervisor of streets, within the limits of said city.

Sec. 47. This ordinance is hereby declared to be a public ordinance, and shall be in force from and after its passage.

JEDEDIAH M. GRANT,

Speaker of the House of Representatives.

HEBER C. KIMBALL,

Speaker of the Senate.

Approved Feb. 6, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, incorporating the Church of Jesus Christ of Latter-day Saints. Passed, Feb. 4, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that all that portion of the inhabitants of said State, which now are, or hereafter may become residents therein, and which are known and distinguished as "The Church of Jesus Christ of Latter-day Saints," are hereby incorporated, constituted, made and declared a body corporate, with perpetual succession, under the original name and style of "The Church of Jesus Christ of Latter-day Saints," as now organized, with full power and authority to sue and be sued; defend and be defended, in all courts of law or equity in this State; to establish order, and regulate worship, and hold and occupy real and personal estate, and have and use a seal, which they may alter at pleasure.

Sec. 2. And be it further ordained, that said body or church, as a religious society, may, at a general or special conference, elect one "trustee-in-trust," and not to exceed twelve assistant trustees, to receive, hold, buy, sell, manage, use and control the real and personal property of said church; which said property shall be free from taxation; which trustee and assistant trustees, when elected or appointed, shall give bonds with approved security, in whatever sum the said conference may deem sufficient, for the faithful performance of their several duties; which said bonds, when approved, shall be filed in the general church recorder's office, at the seat of general church business; when said bonds are approved by said conference: and said trustee and assistant trustees

shall continue in office during the pleasure of said church: and there shall also be made, by the clerk of the conference of said church, a certificate of such election or appointment of said trustee and assistant trustees, which shall be recorded in the general church recorder's office, at the seat of general church business: and when said bonds are filed, and said certificates recorded, said trustee or assistant trustees, may receive property, real or personal, by gift, donation, bequest, or in any manner, not incompatible with the principles of righteousness, or the rules of justice; inasmuch as the same shall be used, managed, or disposed of for the benefit, improvement, erection of houses for public worship, and instruction, and the well being of said church.

Sec. 3. And be it further ordained, that, as said church holds the constitutional and original right, in common with all civil and religious communities, "to worship God according to the dictates of conscience;" to reverence communion agreeably to the principles of truth, and to solemnize marriage compatible with the revelations of Jesus Christ; for the security and full enjoyment of all blessings and privileges, embodied in the religion of Jesus Christ free to all; it is also declared, that said church does, and shall possess, and enjoy continually, the power and authority, in and of itself, to originate, make, pass, and establish rules, regulations, ordinances, laws, customs, and criterions, for the good order, safety, government, conveniences, comfort, and control of said church, and for the punishment or forgiveness of all offenses, relative to fellowship, according to church covenants: that the pursuit of bliss, and the enjoyment of life, in every capacity of public association, and domestic happiness; temporal expansion; or spiritual increase upon the earth, may not legally be questioned: provided, however, that each and every act, or practice so established, or adopted for law, or custom, shall relate to solemnities, sacraments, ceremonies, consecrations, endowments, tithings, marriages, fellowship, or the religious duties of man to his Maker; inasmuch as the doctrines, principles, practices, or performances, support virtue, and increase morality, and are not inconsistent with, or repugnant to, the Constitution of the United States, or of this State, and are founded in the revelations of the Lord.

Sec. 4. And be it further ordained, that said church shall keep, at every full [fully] organized branch or stake, a registry of marriage, births, and deaths; free for the inspection of all members, and for their benefit.

Sec. 5. And be it further ordained, that the presidency of said church shall fill all vacancies of the assistant trustees, necessary to be filled, until superseded by the conference of said church.

Sec. 6. Be it further ordained, that no assistant trustee or trustees shall transact business in relation to buying, selling, or

otherwise disposing of church property; without the consent or approval of the trustee-in-trust of said church.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.

HEBER C. KIMBALL,
Speaker of the Senate.
Approved, Feb. 8, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, authorizing the Judges of the several Counties of this State, to grant Mill, and other Water Privileges, and to control the Timber in their respective Counties.—

Passed, Feb. 4, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that the judges of the several counties in this State, are hereby authorized to grant mill, and other water power privileges, or any watercourse, or creek, and to control the timber within their respective counties; inasmuch as the said privileges do not interfere with the rights of the community, for common uses, or irrigation, or any privileges heretofore granted by this legislative body.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.

HEBER C. KIMBALL,
Speaker of the Senate.

Approved, Feb. 12, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, in relation to Herding.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that all herdsmen shall be held responsible for all beasts taken into their charge for herding; they shall be able to give an accurate account of said beasts when called for by the owner, or his agent, and shall give bonds to the amount of twice the value of stock taken for herding, for the faithful performance of their duties before entering upon that important trust.

Sec. 2. Be it further ordained, that if any such beast be destroyed by lightning, or in any other way, which the herdsman could not prevent; then upon satisfying the owner, or any court having jurisdiction of the same, said herdsman shall be released from the aforesaid obligation.

Sec. 3. Be it further ordained, that if the owner of any part of said herd, shall be under the necessity of searching for his beast or beasts, by the neglect of said herdsman, the herdsman shall pay said owner a reasonable compensaion for his time so spent.

Passed Feb. 4, 1851.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.

HEBER C. KIMBALL,
Speaker of the Senate.

Approved, Feb. 12, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, for the Establishment and Regulation of Estray Pounds. Passed, February 7, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that the road commissioner of each organized county of this State, is hereby authorized to locate an estray pound at or near the centre of each precinct in his county, which shall be erected and kept in repair at the expense of the county, for the purpose of securing all unruly or stray animals from damaging grain, grass or other agricultural productions in such county.

Sec. 2. The people of each precinct may, at the time of their election, elect a suitable person to be the keeper of such pound, whose duty shall be to receive, brand, and take care of all stray or unruly animals driven to him, and keep a description, together with the several certificates of appraisal and bills of damage and costs upon each animal, and shall be considered the owner thereof until the rightful owner shall appear, prove property, pay all damages and costs, and take them away; and if no such owner shall appear and prove property within six months, then the avails of such animal or animals shall be paid into the Perpetual Emigrating Fund for the Poor.

Sec. 3. Any horse, mule, ox, cow, or other animal or animals found in mischief within the lawful enclosure of any person or persons, the owner of which is not known and cannot be ascertained by reference to the record of brands or other diligent search, shall be considered a stray animal.

Sec. 4. In case any such animal is taken up which has so done damage, the person or persons so damaged may have their damages appraised by two or more judicious men, citizens, who shall sign their names to their appraisal, which certificate of damage or costs shall be delivered over with animal or animals into the hands of the estray pound keeper.

Sec. 5. Any horse, mule, ox, cow, or other animal or animals, which shall throw down or break over any fence into any en-

closure which shall be judged by two or more fence-viewers to be in lawful repair, the owner of such animal shall be liable to the person or persons so damaged for all damages sustained, which may be recovered with costs before any justice of the precinct where such damage shall have been done.

Sec. 6. Any horse, mule, ox, cow, or other animal or animals found in mischief, which has been known and proven to be unruly, and has before broken over or through any lawful fence, and the owner has been duly notified thereof, and neglected or refused to take care of such animal or animals, it shall be the duty of any and every person having knowledge of the facts, to drive them to the estray pound.

Sec. 7. Any unruly animal or animals taken up and driven to the estray pound, as specified in the preceding section, shall be forfeited and sold, or disposed of by the pound keeper, to pay the expense of taking up, damages, and costs, and the residue shall be paid into the Perpetual Emigrating Company's Fund semi-annually for the use of the poor.

Sec. 8. It shall be the duty of the pound keeper in each precinct to give twenty days' notice, by publication in a newspaper, or the posting up of bills in three of the most public places in the precinct, previous to making sale of any animal in his possession, forfeited for sale, agreeably to the provisions of this ordinance. He shall keep an accurate account of the same, with the proceeds thereof, together with the amount paid out, on certificates of appraisal of damages and costs, and make report thereof semi-annually to the clerk of the county court, with the amount due the Poor Fund.

Sec. 9. Nothing in this ordinance shall be so construed or understood, as to prevent the just and impartial assessment of damages, or in any wise hinder the real owner from recovering his animal by paying all such just and reasonable charges, excepting such animals as are forfeited, agreeably to the sixth and seventh sections of this ordinance.

JEDEDIAH M. GRANT,

Speaker of the House of Representatives.

HEBER C. KIMBALL,

Speaker of the Senate.

Approved, Feb. 12, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, relating to Inclosures and Trespass.

Passed, Feb. 7, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that all lands, except those that are inclosed or being inclosed, are hereby declared common pasturage, and all peace-

able animals shall be free to run at large and graze thereon, except swine.

Sec. 2. All farming lands used for raising grain, grass, or other agricultural purposes, shall be inclosed with a good and lawful fence sufficient to secure the crop therein from the encroachments of all kinds of peaceable animals.

Sec. 3. All fence, four and a half feet high, in good repair, consisting of rails, poles, boards, stone, or other suitable materials, and all fence, of any description whatever, and all brooks, rivers, sloughs, ponds, hedges, or other obstructions, which shall be in the judgment of two or more fence-viewers equal thereto, shall be deemed a lawful fence.

Sec. 4. Any person owning fence, or different individuals owning portions of fence inclosing fields owned as tenants in common for farming or other purposes, who shall refuse or neglect to keep in lawful repair such fence or portions of fence, shall pay all damages sustained by any other person in said field, in consequence of such neglect.

Sec. 5. Any person or persons, who shall throw down fence, or open bars or gates into any inclosure other than their own, or into any field owned by joint occupancy, and leave the same open, thereby exposing the crops or property of others, shall be deemed guilty of a trespass, and on conviction thereof, shall pay a fine of not less than five dollars, and all damages thereby sustained.

Sec. 6. Any person, who shall cut down, injure, or carry away any timber, wood, tree, grass, grain, roots, plants, or fruit, placed or growing for use, ornament, or shade on land not his own, in which he has no interest, or shall dig stone, mineral, coal, ore, or clay thereon, or drive a team over the same, without the consent of the owner thereof, shall, on conviction thereof, pay four times the value of the injury done to the owner of the land.

Sec. 7. Each precinct in this State shall, at the time of election, elect two or more fence-viewers, whose term of office shall be the same as a justice of the peace, whose duty it shall be to examine and decide upon the legality of all fence in their respective precincts, when called upon, and see that the above law is faithfully executed.

Sec. 8. This ordinance shall be in force from and after the first day of May next.

JEDEDIAH M. GRANT,
Speaker of the House of Representatives.

HEBER C. KIMBALL,
Speaker of the Senate.
Approved, Feb. 12, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, granting Block No. 102, in Great Salt Lake City, to the State of Deseret, for the purpose of erecting a State House upon it.

Passed, Feb. 10, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that the Public Square, on Block No. 102, in Great Salt Lake City, called Union Square, is hereby set apart, granted, and appropriated to the State of Deseret, for the purpose of having a suitable State House and State Offices erected upon it, for the convenience of the Legislature, and the State officers.

JEDEDIAH M. GRANT,

Speaker of the House of Representatives.

HEBER C. KIMBALL,

Speaker of the Senate.

Approved, Feb. (sic) 12, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, regulating the Manufacturing and Vending of Ardent Spirits.

Passed, Feb. 10, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that it shall not be lawful for any person or persons in this State, to establish any distillery or distilleries, for the manufacture of ardent spirits, except as hereafter provided for; and any person or persons, who shall violate this ordinance, on conviction thereof, shall forfeit all property thus invested to the State, and be liable to a fine at the discretion of the court having jurisdiction.

Sec. 2. Be it further ordained, that when the governor shall deem it expedient to have ardent spirits manufactured within this State, he may grant a license to some person or persons, to make and vend the same, and impose such restrictions thereon as he may deem requisite.

JEDEDIAH M. GRANT,

Speaker of the House of Representatives.

HEBER C. KIMBALL,

Speaker of the Senate.

Approved, Feb. 12, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, in reference to Vagrants. Passed, February 10, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that any person residing within the limits of this State, who has no visible means of support, shall be deemed a vagrant.

Sec. 2. Be it further ordained, that upon complaint on oath being made and filed with any justice of the peace, that there is within the county wherein such justice resides, any person who is engaged in uo (sic) useful employment, and has apparently no manner of support, it shall be the duty of such justice forthwith to issue a warrant, to bring such delinquent before him.

Sec. 3. Be it further ordained, that upon the return of such warrant with the defendant therein named in court, said complaint shall be distinctly read to such defendant, when he shall be required to answer the same on oath; and the justice shall enquire into the truth of such complaint in a summary manner.

Sec. 4. Be it further ordained, that if the justice find on such investigation that such complaint be true, he shall record the same in his docket, and thereupon enter judgment declaring such delinquent a vagrant.

Sec. 5. Be it further ordained, that any person convicted as aforesaid, shall be compelled to labor on the public works a sufficient length of time to pay the cost of prosecution; provided, the same be not less than twenty days.

Sec. 6. And be it further ordained, that it shall be the duty of every officer of State, in this State, to report to the magistrate of their respective precincts, any person whom they may have good reason to suspect as being a vagrant under this ordinance.

Sec. 7. The foregoing ordinance shall apply to all loafers who hang about the corners of streets, court houses, or any other public place, who have no business, whether they have property or not.

JEDEDIAH M. GRANT,

Speaker of the House of Representatives.

HEBER C. KIMBALL,

Speaker of the Senate.

Approved, Feb. 12, 1851, BRIGHAM YOUNG, Gov.
Thomas Bullock, Clerk.

AN ORDINANCE, to suppress Gaming. Passed, Feb. 24, 1851.

Sec. 1. Be it ordained by the General Assembly of the State of Deseret, that if any person or persons shall be engaged in gaming or sporting for money or other property, which may be put at stake and won, by horse-racing, cock-fighting, dog-fighting, card-playing, or any other means by which the game may be tested and property won, such person or persons shall be guilty of a misdemeanor, and upon conviction thereof, shall pay over to the court having cognisance (sic) of the same, all such property so employed in the game or sport; and all bets, staked and won.

to be disposed of for the benefit of the county, and such person shall be subject to a fine at the discretion of the court.

JEDEDIAH M. GRANT,

Speaker of the House of Representatives.

HEBER C. KIMBALL,

Speaker of the Senate.

Approved, Feb. 24, 1851, BRIGHAM YOUNG, Gov.

Thomas Bullock, Clerk.

STATE OF DESERET, }
Secretary's Office. } ss.

I Willard Richards, Secretary of the Provisional Government of the State of Deseret, certify, that the foregoing is a true copy, of ordinances on file in my office.

In Witness whereof, I have hereunto set my hand, and seal of state, at Great Salt Lake City, state aforesaid, this 27 day of February, in the year of our Lord eighteen hundred and fifty one; and of the Independence of the United States of America, the seventy-fifth.



WILLARD RICHARDS,
Secretary of State.

APPENDIX A
RULES AND REGULATIONS
For the Governing of Both
HOUSES OF THE GENERAL ASSEMBLY
of the
STATE OF DESERET

When in Joint Session; And for Each
Respective House, When In Separate Session
Adopted by the Senate and House of Representatives
December 2, 1850

Rule 1. The house shall meet at time specified, at all previous adjournments.

Rule 2. The clerk shall call the roll within fifteen minutes after the time specified for meeting.

Rule 3. Any member absent, and not answering to his name when the roll is called, shall be subject to a fine of fifty cents.

Rule 4. Any member being absent thirty minutes after the roll is called, shall be subject to a fine of one dollar.

Rule 5. Any member being absent one hour after the roll is called, shall be subject to a fine of two dollars.

Rule 6. The fine so imposed, shall be paid to the clerk of the house, to be applied in purchasing wood, lights, &c., and towards defraying the incidental expenses of the same.

Rule 7. Any member giving a reason for his absence, considered sufficient by the house, no fine shall be imposed.

Rule 8. No member shall be permitted to leave the house, during the session of the day, without leave of absence by the speaker.

Rule 9. No member shall be permitted to address the house, while another member has the floor.

Rule 10. The clerk of the house shall be required to keep a faithful record of the proceedings of the house, and perform such other duties, as the house may provide, from time to time.

Rule 11. The sergeant-at-arms duty shall be, to lock up and unlock the house; to cleanse, warm, and have it prepared by the time the members of the house arrive—to attend to the fires, prepare water, execute the office of door-keeper, obey the commands, and execute all the orders and writs of the speaker, and perform such other duties, as may be required of him, from time to time, agreeable to the virtue of his office.

Rule 12. The clerks and sergeants-at-arms, shall have the

privilege of a seat within the bar, but are not permitted to address the house, without permission of the house, but in no case to vote on any question pending.

Rule 13. The house shall have authority and power, to punish any disorderly member, or one present not being a member, for contempt or otherwise, whenever the house shall be in session, by expulsion from his seat, or by fine, not exceeding twenty-five dollars.

Rule 14. For all neglect of duty, in the sergeants-at-arms, in not complying with the duties enjoined upon him, in the 11th rule of these regulations, shall be subject to a fine of not less than two dollars, at the discretion of the speaker, to be paid and applied according to the 6th rule of these articles.

Both houses voted, that the above rules shall be in force from and after its passage.

STANDING COMMITTEES

ON ELECTIONS.—Charles C. Rich, David Pettigrew, Orson Spencer, William I. Appleby, and Henry Harriman.

ON JUDICIARY.—Daniel Spencer, Ezra T. Benson, David Fullmer, Willard Snow, Edwin D. Woolley, and Seth M. Blair.

ON PETITIONS.—Ezra T. Benson, Charles C. Rich, William W. Phelps, Albert P. Rockwood, John Van Cott, and John S. Fullmer.

ON COUNTIES.—Daniel Spencer, Wilford Woodruff, Reynolds Cahoon, Daniel H. Wells, and Willard Snow.

ON ROADS, BRIDGES, AND PUBLIC WORKS.—Ezra T. Benson, William W. Phelps, Ira Eldredge, Albert P. Rockwood, and John Murdock.

ON WAYS AND MEANS.—Daniel Spencer, Charles C. Rich, Ira Eldredge, David Fullmer, and William Hickenlooper.

ON MILITARY.—Charles C. Rich, William W. Phelps, Daniel H. Wells, Willard Snow, and Hosea Stout.

ON CLAIMS.—William W. Phelps, Reynolds Cahoon, Orson Spencer, John Van Cott, and Ira Eldredge.

ON CIVIL LAWS.—Phinehas Richards, Ezra T. Benson, Willard Snow, John Murdock, Seth M. Blair, and Henry Harriman.

ON ORDINANCES.—William W. Phelps, Ezra T. Benson, Daniel H. Wells, William I. Appleby, and Albert P. Rockwood.

ON CRIMINAL CODE.—Daniel Spencer, Phinehas Richards, Charles C. Rich, Abraham O. Smoot, Seth M. Blair, and Jonathan C. Wright.

APPENDIX B

ORDINANCES OF THE HIGH COUNCIL

Great Salt Lake City, Dec. 27, 1847.

We the High Council of the Great Salt Lake City, in the absence of any organised jurisdiction of any Territory, for the peace, welfare and good order of our community, proceed to enact the following laws, for the government and regulation of the inhabitants of this city and valley for the time being, subject to the approval of the people.

Ordinance 1st, Concerning Vagrants

Whereas it is of the utmost importance that every man in our community use the utmost exertion to cultivate the earth in order to sustain himself or family in a new location, so far from supplies, therefore should any person or persons be convicted, before any acting judge or judges acknowledged by the people of said City and Valley of idling away his or her time, or neglecting in any manner to use the necessary exertions for the above purposes, it shall be the duty of said judge or judges to appoint two or more trustees, whose duty it shall be to take charge of all the property of the person or persons thus convicted, or such portion of the same as the judge or judges may deem necessary, and to hold the same in security for the support of himself or family or those depending upon his labors, to be held at the discretion of the judge or judges. And it shall be the further duty of said Trustees to take into custody the person or persons thus convicted and to cause them to be industriously employed, the proceeds of which employment shall be held and applied in the same manner and for the same purpose as the property before mentioned. And be it further ordained, that the Trustees be paid a reasonable compensation for their trouble out of the property taken from, or labor done by any person or persons convicted under this Ordinance.

Ordinance 2nd, Concerning disorderly or dangerous persons and disturber of the peace.

Any person convicted of violence on person or property, threatening, or riot, shall be sentenced to receive a certain number of lashes on the bare back, not exceeding 39, or be fined in any sum not less than five dollars, nor exceeding five hundred dollars, and shall give security for his good behavior, at the discretion of the judge or judges.

Ordinance 3rd, Concerning Adultery and Fornication.

Any person or persons convicted of the crime of Adultery or Fornication, shall be sentenced to receive a certain number of lashes on the bare back, not exceeding 39, and be fined in a sum not exceeding one thousand dollars, at the discretion of the judge or judges.

Ordinance 4th, Concerning Stealing, Robbing,
Housebreaking or maliciously causing
the destruction by fire of any property

Any person or persons convicted of any of said crimes shall be sentenced to receive a number of lashes on the bare back, not exceeding 39, and to restore four fold, and to give security for their good behavior in future at the discretion of the judge or judges.

Ordinance 5th, Concerning Drunkenness, and etc.

Any person or persons convicted of Drunkenness, Cursing, Swearing, foul or indecent language, unnecessary firing of guns, within or about the Forts, unusual noise or noises, or in any other way disturbing the quiet or peace of the community, shall be fined any sum not less than 25 dollars. The above Ordinances to take effect from and after the first day of January, A. D., 1848.

Done in behalf of the High Council and
People of Great Salt Lake City

Great Salt Lake City, Jan. 25, 1848.

Ordinance 6th, Be it ordained, that no person is entitled to more fuel than will last him to the first day of October, 1848, or to more poles or timber than will answer for his present fencing or building, unless by permission of the Council, under penalty of a sum not less than 5 nor exceeding 500 dollars, at the discretion of the judge or judges.

Ordinance 7th. Be it ordained that no loose cattle, horses, mules, or sheep, shall be permitted to run upon the wheat land, or be driven on the road passing through it; and that the Marshall, or any person he deputizes, shall take up every animal thus trespassing; and that the owner of every animal thus taken shall pay twenty-five cents per head to the person who takes them up, and two cents per head a day, for herding, if they require to be herded; for the wheat lands and the roads through it shall be kept clear of loose animals.

The above ordinances to take effect and be in full force, from and after sunset of the 27th day of January, A. D., 1848.

Albert Carrington, clerk.

ORDINANCES,
PASSED BY THE LEGISLATIVE COUNCIL OF
GREAT SALT LAKE CITY, AND ORDERED
TO BE PRINTED

Penalty for riding horses without leave, driving cattle off the feeding range, &c.

No. 36. Feb. 24, 1849.

Sec. 1. That any person or persons, who is or are found riding horses or mules in this valley, which does not belong to him, her or them; not having permission from the owner, shall, on being convicted before the proper authority, be fined in the sum of not less than twenty-five dollars, for each offense.

Sec. 2. That any person or persons, found driving horses or mules from their feeding range, which does not belong to him, her, or them, and running them off their range, without permission from the owners, either to bring them to the Forts or elsewhere; shall, on being convicted before the proper authority, be fined in the sum of not less than twenty-five dollars for each offense.

Sec. 3. That any person, or persons, who is found driving oxen, cows, or young cattle from the feeding range, which does not belong to him, her, or them, without permission from the owners, either to the Forts or elsewhere, shall, on being convicted before the proper authority, be fined in the sum of not less than five dollars, for each ox, cow, or young creature, so drove from the range.

Sec. 4. That any person, or persons, on being convicted of breaking any of the above laws, by riding or driving horses, mules, oxen, cows, or young cattle as above stated, shall, in addition to the aforesaid fines, pay to the owners all damages: the amount of damages being assessed by competent authority.

Sec. 5. That in case of any person, or persons, being convicted on any of the aforesaid offenses, the fine shall be collected forthwith; one half of which shall be given to the informant, and the other half be paid into the Public Treasury.

Stud Horses, or Jacks, not to run at large.

No. 66. March 17, 1849.

That from and after this date, no Stud-Horse, or Jack over eighteen months old, shall be allowed to run at large in this valley, or in the regions round about, under the penalty of such Horse or Horses, Jack or Jacks being forfeited for the public use.

Water not to run across the street, without a bridge, &c.

No. 77. April 28, 1849.

That each Bishop in the City, be required to run furrows, and cut ditches around their wards, to keep the water from flood-

ing the streets; and in all cases, where it is necessary, to convey the water across the street or public roads, the Bishops shall build, or cause, to be built, a sufficient bridge over the ditch: and in case of neglect, a fine of twenty-five dollars shall be assessed upon said ward, for every instance of water running across the public roads, and not having a bridge over it.

City Sexton.

No. 113. October 20, 1849.

On motion, Jesse W. Crosby was appointed Sexton for the City of the Great Salt Lake.

Penalty for throwing filth in the Public Water Courses, &c. in the City.

No. 121. November 10, 1849.

Sec. 1. Be it ordained, that from and after the passage of this Ordinance, any person killing beeves in this City, and suffering the filth from the dead carcasses to run in the public water courses, or washing entrails or other parts of dead cattle in the public water courses, shall, on conviction thereof, before any Bishop or Justice of the Peace, be fined in the sum of not less than five, nor more than fifty dollars for each offense.

Sec. 2. Any person placing raw hides, or other filthy substance in any public water course of this City, shall, on conviction of the same, before the proper tribunal be fined in any sum, not exceeding fifty, nor less than five dollars for each offense.

Sec. 3. That the Marshall and deputies, are hereby ordered to pay attention to the public water courses, and that they are hereby authorized to arrest, without process, and bring before any Bishop or Justice of the Peace, any persons, who shall violate the first or second sections of this Ordinance.

Assistant Supervisors of Streets.

No. 122. November 10, 1849.

On motion, Resolved that an Assistant Supervisor be appointed in each ward of the City, to repair, and keep in repair the streets of the same; and the following persons were appointed Assistant Supervisors, for their respective wards, to wit:—

| | |
|----------------------------|--------------------------|
| 1st ward, Charles C. Burr, | 9th " Sam'l. A. Wooley, |
| 2d " Thomas Moor, | [Woolley] |
| 3d " Erastus Bingham, | 10th ward, John Dalton, |
| 4th " John Preece, | 11th " John Lytle, |
| 6th " Levi Savage, sr. | 12th " Daniel Hendricks, |
| 7th " Vinson Shurtliffe, | 13th " C. V. Spencer, |
| [Shurtliff] | 14th " John Van Cott, |
| 8th " William Glover, | |

| | | | |
|------|---|-----------------|----------------------------|
| 15th | " | Wm. A. Empey, | 17th ward, Martin Peck, |
| | | [Empey] | 18th ward, Wm. H. Kimball, |
| 16th | " | William Miller, | 19th " Peter Nebeker. |

Sawing Lumber, allowed one third.

No. 125. November 24, 1849.

That no person owning a saw mill, shall be allowed more than one third of the lumber for sawing; and wherein they have taken more than the one third, that they shall refund the amount to the owners of the logs.

Cattle in the Stray Pound, after one Month to be sold.

No. 76. April 28.

Resolved, that from and after the first day of May, 1849, the inhabitants of the Valley of the Great Salt Lake, be required to keep all kinds of stock off the farming land, and city lots, and further resolved, that after the above date, all kinds of stock, found loose on the farming lands, and city lots, shall be delivered over to the Marshall or the Bishops of the several wards, who shall collect from the owner of each trespassing creature, the sum of one dollar for each offense, together with damages and expenses.

No. 127. November 24, 1849.

That all cattle, that have been on the hands of the owners of the Stray Pound, over one month be sold, and the proceeds be put into the perpetual poor emigrating fund.

AN ORDINANCE CREATING AN OFFICE FOR THE RECORDING OF "MARKS AND BRANDS" ON HORSES, MULES, CATTLE, AND ALL OTHER STOCK.

Passed by the Legislative Council, Saturday Dec. 29, 1849.

No. 130.

Sec. 1. Be it ordained that an office be, and is hereby created for the purpose of Recording, Marks and Brands, put on Horses, Mules, Cattle, Cows, and all other stock, owned by the Citizens of the Valley of the Great Basin.

Sec. 2. It Shall be the duty of the Recorder of said office, to Keep a fair and faithful record of all Marks, or Brands, put on all Horses, Mules, Cattle, Cows, and all other stock owned by the citizens of the valley of the Great Basin, together with the names of owners of said Brands, and place of residence, whenever application is made for the same by the owners thereof, and to define and designate the particular (sic) Marks or Brands, to be used by each individual.

Sec. 3. It shall be the duty of the Recorder to consult the convenience of each person applying, for a Mark, or Brand, Pro-

vided, the Brand applied for has not previously been recorded to some other person, and to furnish to any person desiring it a certificate of his or her Brand, recorded by him, free of charge.

Sec. 4. It shall be the duty of the Recorder to keep exposed in his office, or at some public place near the Temple Block, a faithful copy of all Marks or Brands, recorded by him, and the names of the owners of said Brands.

Sec. 5. The Recorder's fees, for recording any Mark or Brand on his record, shall not exceed fifty cents, for each Mark or Brand recorded.

Sec. 6. That William Clayton be appointed the Recorder of Brands, according to the provisions of this Ordinance.

Sec. 7. It shall be the duty of the Recorder, to furnish a printed copy free of charge, of all Marks, Brands, and record of Brands, to every individual applying for the same, and having a certificate of record, as speedily as possible after the entry of one hundred Brands, also to repeat the same on the completion of the entry of every succeeding hundred.

Sec. 8. Any person finding cattle or any animals intended in this Ordinance having Recorded Brands in any enclosure, or any place where they may be doing damage, shall immediately secure and take good care of the same, and search diligently, and restore the animal or animals to the owners, who shall be liable for all reasonable cost, and damages: and if the owner cannot be found after diligent search, said animals may be driven to the Stray Pound.

Sec. 9. It shall be the duty of every person selling or disposing of any animal having a Recorded Brand, to reverse the same on said animal; but if any person shall alter or deface, any Recorded Brand, on any animal; or place, or cause to be placed his own, or other brand on any animal not belonging to said individual; he or they shall be subject to any or all the penalties of this Ordinance, together with further punishments, applicable to felonious offenses, at the discretion of the Court, having jurisdiction.

Sec. 10. Be it further ordained, that whenever horses, mules, cattle, cows, or other stock having Recorded Brands, are put in the Stray Pound, it shall be the duty of the overseers of the Stray Pound to use due diligence to ascertain the names of the owners of said stock, both by reference to the Record of Brands and otherwise; and to notify the owners of the same if known; or publish the same with the marks or brands in four public places of the city, within three days from the time, said stock are put in the Pound.

Sec. 11. Any officer or individual, violating any provision of this Ordinance, shall be liable to a penalty of not less than one dollar, nor more than one thousand, at the discretion of the Court, having jurisdiction thereof.

